

## **Table of Contents**

|  | <b><u>Page</u></b> |
|--|--------------------|
| <b>Chapter 1 THDA Policies and Objectives</b>  |                    |
| I. About the Section 8 Program & the Housing Authority                                     | 1                  |
| II. Purpose of the Plan  | 2                  |
| III. Statement of Local Objectives   | 2                  |
| IV. Organizational Setup   | 3                  |
| V. Description of Programs   | 3                  |
| VI. Legal Jurisdiction   | 3                  |
| VII. Reference   | 3                  |
| VIII. Public Notice  | 4                  |
| IX. Fair Housing   | 4                  |
| X. Accommodations Policy   | 5                  |
| XI. Privacy Rights & Guidelines for Processing Requests for Information                    | 6                  |
| XII. Rules and Regulations   | 8                  |
| XIII. Management Assessment Program (SEMAP)  | 8                  |
| XIV. Record Keeping  | 9                  |
| XV. Annual & Five-Year Agency Plans  | 10                 |
| XVI. Required Reporting to HUD   | 11                 |
| XVII. Conflict of Interest   | 11                 |
| XVIII. Exception Waiver Policy   | 11                 |
| <b>Chapter 2 Applicant Procedures</b>  |                    |
| I. Applying for the Program  | 1                  |
| II. Pre-Application Procedures   | 1                  |
| III. The Opening and Closing of Application Acceptance                                     | 3                  |
| IV. Wait List Maintenance  | 3                  |
| V. Local Preferences   | 5                  |
| VI. Updating the Waiting List/Purging  | 6                  |
| VII. Eligibility Appointments  | 7                  |
| VIII. Special Admissions   | 9                  |
| IX. Transfer Policy  | 9                  |
| <b>Chapter 3 Eligibility for Admission &amp; Denials</b>                                   |                    |
| I. General Information   | 1                  |
| II. Family/Household Composition   | 1                  |
| III. Income Limitations  | 4                  |
| IV. Social Security Numbers  | 6                  |
| V. Citizenship   | 7                  |
| VI. Other Criteria for Admissions and Denials  | 11                 |
| VII. Changes that Occur between Final Eligibility Determination and Executed Contract Date | 20                 |

|                             |    |
|-----------------------------|----|
| VIII. Suitability of Family | 20 |
| IX. Ineligible Families     | 20 |

#### **Chapter 4 Verification Procedures**

|   |    |
|---|----|
| I. General Verification Requirements                              | 1  |
| II. Verifying Family Information                                  | 8  |
| III. Verifying Income and Assets                                  | 14 |
| IV. Verifying Mandatory Deductions                                | 19 |
| V. Verifying Other Eligibility Factors                            | 26 |
| Exhibit 4-1 Excerpt from HUD Verification Guidance                | 27 |
| Exhibit 4-2 Summary of Documentation Requirements for Noncitizens | 31 |

#### **Chapter 5 Income Considerations and Determination of Total Tenant Payment**

|  |    |
|--|----|
| I. General Policy                                | 1  |
| II. Calculating Annual Income                    | 1  |
| III. Converting Income to Annual Income          | 9  |
| IV. Allowances & Calculating Adjusted Income     | 9  |
| V. Minimum Income Requirement                    | 12 |
| VI. Assets                                       | 12 |
| VII. Calculating the Total Tenant Payment        | 14 |
| VIII. Minimum Rent Exception for Family Hardship | 15 |

#### **Chapter 6 Applicant Briefings & Housing Choice Voucher Issuance**

|   |   |
|---|---|
| I. General Policy   | 1 |
| II. Briefing Topics   | 1 |
| III. Briefing Packet  | 3 |
| IV. Relocation Briefing   | 4 |
| V. Owner Briefings  | 4 |
| VI. Encouraging Participation in Areas without Low Income or Minority Concentration | 4 |
| VII. Housing Choice Voucher Issuance  | 5 |
| VIII. Housing Choice Voucher Term   | 6 |

#### **Chapter 7 Subsidy Standards, Acceptable Housing Units & Housing Quality Standards**

|  |   |
|--|---|
| I. Subsidy Standards & Determining Voucher Size  | 1 |
| II. Responsibility for Locating Suitable Housing | 4 |
| III. Eligible Housing Types                      | 4 |
| IV. Housing Quality Standards                    | 5 |

## **Chapter 8 Request for Tenancy Approval, Lease, Rent Determination and Rent Reasonableness, HAP Contract Execution**

|   |    |
|---|----|
| I. Request for Tenancy Approval               | 1  |
| II. Leases                                    | 2  |
| III. Tenancy or Lease Addendum                | 5  |
| IV. Lease/Purchase Agreements                 | 6  |
| V. Proof of Ownership and Substitute W-9 Form | 6  |
| VI. HAP Contract Execution                    | 6  |
| VII. Payment Standards                        | 8  |
| VIII. Rent Calculation                        | 9  |
| IX. Rent Reasonableness                       | 11 |
| X. Utility Allowances                         | 13 |
| XI. Utility Reimbursement Payments            | 13 |
| XII. Security Deposits                        | 13 |

## **Chapter 9 Annual Recertification Activities**

|                                |   |
|--------------------------------|---|
| I. Annual Recertification      | 1 |
| II. Annual HQS Inspection      | 3 |
| III. Contract Rent Adjustments | 3 |

## **Chapter 10 Interim Recertifications**

|                                       |   |
|---------------------------------------|---|
| I. General Policy                     | 1 |
| II. Types of Interim Recertifications | 1 |
| III. Interim Verification Procedures  | 5 |
| IV. Deadlines for Reporting           | 5 |
| V. Penalties for Not Reporting        | 5 |
| VI. Effective Dates of Changes        | 6 |
| VII. Notices                          | 7 |

## **Chapter 11 Terminations and Court-Ordered Evictions**

|  |    |
|--|----|
| I. General Policy  | 1  |
| II. Termination of Assistance  | 1  |
| III. Denial or Termination for Criminal Activity by a Household Member | 3  |
| IV. Notice of Termination of Assistance                                | 9  |
| V. Mandatory Denial and Termination                                    | 9  |
| VI. Termination of Tenancy   | 10 |
| VII. Termination of HAP Contract                                       | 12 |
| VIII. Court-Ordered Eviction   | 15 |

## **Chapter 12 Relocations and Portability**

|                |   |
|----------------|---|
| I. Relocations | 1 |
|----------------|---|

|                 |    |
|-----------------|----|
| II. Portability | 10 |
|-----------------|----|

## **Chapter 13 Program Integrity, Preventing Errors and Abuse, Remedies for Abuse**

|   |   |
|---|---|
| I. General Policy   | 1 |
| II. Preventing Errors and Program Abuse                   | 1 |
| III. Detecting Errors and Program Abuse                   | 2 |
| IV. Investigating Errors and Program Abuse                | 2 |
| V. Corrective Measures and Penalties/Repayment Agreements | 3 |

## **Chapter 14 Owner Information, Policies and Responsibilities**

|                                  |   |
|----------------------------------|---|
| I. Owner Outreach                | 1 |
| II. Owner Briefings              | 2 |
| III. Owner Selection             | 2 |
| IV. Disapproval of Owners        | 2 |
| V. Owner Responsibilities        | 3 |
| VI. Information to Owners        | 4 |
| VII. Making Payments to Owners   | 4 |
| VIII. Owner and Family Relations | 5 |
| IX. Changes in Ownership         | 5 |

## **Chapter 15 Family Obligations/Responsibilities and Appointments**

|  |   |
|--|---|
| I. Family Obligations/Responsibilities | 1 |
| II. Missed Appointments                | 3 |

## **Chapter 16 Complaints and Appeals**

|   |   |
|---|---|
| I. General Policy   | 1 |
| II. Informal Review or Hearing  | 1 |
| III. Contested Care Hearing under the Tennessee Uniform Administrative Procedures Act | 5 |
| IV. Summary of Review/Hearing Procedures  | 6 |

## **Chapter 17 Special Admissions, Housing Conversion Actions & Other Special Housing Types (Group Homes, IGR's)**

|   |   |
|---|---|
| I. Special Admissions   | 1 |
| II. Housing Conversion Activities   | 1 |
| III. Rent Determination for Group Homes, Independent Group Residences, Single Residence Occupancy Facilities and Assisted Living Facilities | 5 |

## **Chapter 18 Homeownership Voucher Program Option**

|                       |   |
|-----------------------|---|
| I. General Provisions | 1 |
|-----------------------|---|

|  |    |
|--|----|
| II. Initial Eligibility Requirements                             | 1  |
| III. Partner Agencies  | 2  |
| IV. Homebuyer Education  | 3  |
| V. Pre-Qualifying Application and Mortgage Readiness             | 4  |
| VI. Financing  | 5  |
| VII. Final Eligibility Determination                             | 8  |
| VIII. Voucher Issuance and Timeframe for Utilization             | 8  |
| IX. Subsidy Standards  | 8  |
| X. Contract for Sale and Inspection Requirements                 | 8  |
| XI. Portability  | 9  |
| XII. Permitted Unit Types  | 10 |
| XIII. Permitted Ownership Arrangements                           | 10 |
| XIV. Homeownership Assistance Payment                            | 10 |
| XV. Payment Standard   | 11 |
| XVI. Allowance for Routine and Long-Term Maintenance and Repairs | 11 |
| XVII. Utility Allowance  | 11 |
| XVIII. Maximum Subsidy Term                                      | 12 |
| XIX. Family Obligations  | 12 |
| XX. Termination of Assistance                                    | 13 |
| XXI. Lease-to-Purchase Agreements                                | 13 |
| XXII. Home Sale  | 13 |
| XXIII. Annual Recertification                                    | 14 |

## **Chapter 19 Resident Advisory Board and Resident Advisory Board of Directors Member**

|                            |   |
|----------------------------|---|
| I. Resident Advisory Board | 1 |
| II. Resident Board Member  | 2 |

## **Chapter 1**

### **THDA POLICIES AND OBJECTIVES [24 CFR 982.1]**

#### **I. ABOUT THE SECTION 8 PROGRAM & THE HOUSING AUTHORITY**

The Section 8 Program was enacted as part of the Housing and Community Development Act of 1974, which recodified the U.S. Housing Act of 1937 (the Act) and included Section 8 as a substitute for the Section 23 Leased Housing Program. The Tennessee Housing Development Agency was established in 1973 pursuant to State legislation. On November 9, 1976, THDA entered into an Annual Contributions Contract with HUD and received its first allocation of Section 8 Rental Assistance funding.

The Housing and Community Development Act was substantially amended in October 1998 when Congress enacted the Quality Housing and Work Responsibility Act (QHWRA). The QHWRA merged the Existing Certificate and Voucher programs into a single rental assistance program titled the Housing Choice Voucher program. Families that were assisted under the Voucher program prior to October 1, 1999 automatically became participants in the Housing Choice Voucher Program October 1, 1999. Families that were assisted under the Certificate program prior to October 1, 1999 were assisted under the Certificate program until their second annual recertification after October 1, 1999. Effective October 1, 2001, all families were merged into the Housing Choice Voucher program.

The THDA Board of Directors approved the option of allowing eligible participants in the Housing Choice Voucher program to purchase a home with their Housing Choice Voucher assistance rather than renting on a pilot or trial basis in July 2001. The Board adopted the Homeownership Voucher Program as a permanent option for eligible applicants and participants in the Housing Choice Voucher program in September 2002.

The requirements of the federal regulations, as they apply to the Section 8 Housing Choice Voucher Program and Section 8 to Homeownership Program are described in and implemented through this Administrative Plan. Locally established agency policies are also described in and implemented through this Administrative Plan where the federal regulations allow local discretion. Administration of the Section 8 Rental Assistance Program and the functions and responsibilities of the THDA staff shall be in compliance with the policies described in this Plan, THDA's Personnel Policy, THDA's Equal Housing Opportunity Plan, HUD's code of federal regulations, HUD's Housing Choice Voucher Handbook where applicable, as well as all federal, state and local Fair Housing Laws and Regulations.

The Housing Choice Voucher Program herein will be referred to as the “voucher” program or the “HCV” program.

## **II. PURPOSE OF THE PLAN**

The purpose of the Administrative Plan is to establish policies for carrying out the Housing Choice Voucher Program (HCV) and the Section 8 to Homeownership Program in a manner consistent with HUD requirements but not a mere restatement of HUD-mandated policies and procedures. The Plan covers both admission and continued participation in the HCV program and Section 8 to Homeownership Program. The plan provides guidance in the administration of the programs in compliance with HUD requirements, including maintaining well-organized and complete records and facilitating HUD's monitoring and review of the programs.

THDA is responsible for complying with all subsequent changes in HUD regulations pertaining to these programs. If such changes conflict with this Plan, HUD regulations will have precedence.

The THDA Board has designated the Executive Director to approve changes to the Plan.

## **III. STATEMENT OF LOCAL OBJECTIVES [24 CFR 982.1]**

The Section 8 Program is designed to achieve the following major objectives:

- To provide decent, safe, and sanitary housing for extremely or very low income families while maintaining their rent payments at an affordable level.
- To ensure that all units meet Housing Quality Standards and families pay fair and reasonable rents.
- To promote fair housing and the opportunity for extremely or very low-income families of all ethnic backgrounds to experience freedom of housing choice.
- To promote a housing program that maintains quality service and integrity while providing an incentive to private property owners to rent to very low-income families.

In addition, THDA has local goals and objectives for the Section 8 Program. There is an undeniable need for low income housing or rental assistance within the jurisdiction of THDA, as evidenced by waiting lists for various housing programs. The Rental Assistance Division of THDA is charged with meeting these needs through housing assistance programs available through the Department of Housing and Urban Development.

There is also a need for decent, safe and sanitary housing units available for program participants. There is not an abundance of affordable housing for extremely low-income participants within the jurisdiction without the availability of subsidy.

THDA establishes realistic and attainable goals and has given particular thought to the numbers of families who can be expected to need and want to move to better quality and more affordable housing. In establishing goals, THDA also has given special consideration to the likely availability of existing housing. By setting attainable goals, THDA hopes to achieve these by the

nature of the goals themselves. Not overburdening the market, not forcing the program, but providing a vehicle for those who have a housing need and those who own rental units to cooperate in a manner beneficial to each. The strategy is to achieve the attainable goals in the simplest manner possible, at the least expense, while complying with the Section 8 requirements and regulations.

#### **IV. ORGANIZATIONAL SETUP**

Under the direction of the Board of Directors, THDA's Executive Director delegates the administration of the Section 8 program's day-to-day operations to the Rental Assistance Division.

The Rental Assistance Division's HCV program has one central administrative office located in Nashville and nine direct service field offices located in Cookeville, Covington, Erin, Knoxville, Lewisburg, Madison, Milan, Selmer and Tullahoma, under the general direction of the Executive Director through the Deputy Executive Director of Community Development and Multifamily Programs. Central office staff is comprised of the Division Director, Assistant Director, Section 8 State Coordinator, Family Self-Sufficiency Coordinator, Family Self Sufficiency and Homeownership Specialists, Quality Control Coordinator, Systems Coordinator, Community Relations Specialist and other administrative personnel. Each of the field offices is headed by a Housing Assistance Manager with a staff of Field Representatives who work directly with the Section 8 clients for daily program administration.

#### **V. DESCRIPTION OF PROGRAMS**

THDA's Rental Assistance Division administers the following housing programs:

- Section 8 Housing Choice Voucher Program
- Section 8 to Homeownership Program
- Family Self-Sufficiency Program

#### **VI. LEGAL JURISDICTION**

The legal jurisdiction for THDA is the State of Tennessee. At this time, THDA administers the HCV program in 75 of the 95 counties in Tennessee.

#### **VII. REFERENCE**

The Tennessee Housing Development Agency (THDA) is referred to as "PHA" or "Housing Agency" throughout this document. In addition, for simplicity purposes, the pronoun "he" is used consistently in this Plan when referring to both male and female applicants, participants, owners, etc.



## **VIII. PUBLIC NOTICE**

When it is required that THDA give public notice, the agency will place an announcement in a newspaper with distribution in the affected jurisdiction. When notice is necessary for a large geographic area (i.e. statewide), THDA will run one announcement in a major newspaper in each of the three grand divisions. A copy of this announcement will also be posted in the local THDA field offices and on the THDA website.

## **IX. FAIR HOUSING [24 CFR 982.54 (d)(6)]**

It is the policy of THDA to comply fully with all Federal, State and local nondiscrimination laws and in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

Pursuant to the State of Tennessee's policy of non-discrimination, THDA does not discriminate on the basis of race, sex, religion, color, national or ethnic origin, age, family or marital status, disability, handicap, military status or sexual orientation in its policies, or in the admission to or access to, or treatment or employment in, its programs, or services or activities.

Equal Employment Opportunity / Affirmative Action inquiries or complaints should be directed to THDA's EEO/AA Coordinator or Officer, 404 James Robertson Parkway, Suite 1114, Nashville, TN 37243, (615) 741-4980 TDD- 532-2984. ADA inquiries or complaints should be directed to THDA's ADA Coordinator, 404 James Robertson Parkway, Suite 1114, Nashville, TN 37243, (615) 741-4980, TDD- (615) 532-2984.

To further its commitment to full compliance with applicable Civil Rights laws, THDA will provide information to HCV holders regarding "discrimination" and any recourse available to them should they feel they have been victims of discrimination. Such information will be made available during the family briefing session, and all applicable Fair Housing Information and HUD Discrimination Complaint Forms will be made a part of the applicant briefing packet and annual packet.

Except as otherwise provided in 24 CFR 8.21(c)(1), 8.24(a), 8.25, and 8.31, no qualified individual with disabilities shall, because THDA's facilities are inaccessible to or unusable by persons with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance.

THDA will maintain lists of property owners who have requested participation in the program by county to ensure "greater mobility and housing choice" for extremely low income households served by this agency. The lists will be provided to families during the applicant or relocation briefing and as requested.

THDA will, as needed, make available an interpreter to assist non-English speaking families. THDA works with organizations who assist hearing and sight-impaired persons to provide assistance where needed.

## **X. ACCOMMODATIONS POLICY [24 CFR 700.245 (c)(3)]**

This policy is applicable to all situations described in this Administrative Plan when a family initiates contact with THDA, when THDA initiates contact with a family, including when a family applies, and when THDA schedules or reschedules appointments of any kind.

It is THDA's policy to be service-directed in the administration of our housing programs, and to exercise and demonstrate a high level of professionalism while providing housing services to families.

A list of handicap-accessible units may be provided, if available, to assist families in locating housing.

Families who have persons with disabilities will be referred to agencies in the community that offer services to persons with disabilities when requested by the family.

### **Persons with Disabilities [24 CFR 982.153(b)(6)]**

THDA's policies and practices will be designed to provide assurances that all persons with disabilities will be provided reasonable accommodation so that they may fully access and utilize the housing program and related services. The availability of specific accommodations will be made known by including notices on THDA forms to all families. All requests for specific accommodations will be verified so THDA may properly accommodate the need presented by the disability.

THDA's central office and all field offices are handicap accessible. Program accessibility for the hearing impaired is provided by the TDD telephone number: (615) 532-2894.

### **Federal Americans with Disabilities Act of 1990**

1. With respect to an individual, the term "disability" means:
  - A physical or mental impairment that substantially limits one or more of the major life activities of an individual;
  - A record of such impairment; or
  - Being regarded as having such an impairment.
2. Those "regarded as having such an impairment" may include those with conditions such as obesity or cosmetic disfigurement, and individuals perceived to be at high risk of incurring a work-related injury.
3. Individuals with contagious diseases who do not pose a direct threat to others are covered by the Act. AIDS victims and those who test positive for the HIV virus are considered to have a disability.

4. An individual who has an infectious or communicable disease that is transmitted to others through the handling of food, the risk of which cannot be eliminated by reasonable accommodation, may be refused an assignment or a continued assignment to a job involving food handling. The Secretary of Health and Human Services annually will publish a list of those diseases that are transmitted through food handling.
5. Rehabilitated alcohol and drug users are considered to be persons with disabilities for purposes of the Act. However, current alcohol and drug users can be held to the same qualification standards for job performance as other employees.

### **Undue Hardship**

Requests for reasonable accommodation from persons with disabilities will be granted upon verification that they meet the need presented by the disability and they do not create an "undue financial and administrative burden," meaning an action requiring "significant difficulty or expense." This standard is not specifically defined in the Act.

In determining whether accommodation would create an undue hardship, the following guidelines will apply:

- The nature and cost of the accommodation needed;
- The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; and
- The number of persons employed as part of the organization, the number of families likely to need such accommodation, the effect on expenses and resources, or the likely impact on the operation of the program as a result of the accommodation.

### **Verification of a Request for Accommodation**

All requests for accommodation or modification will be verified with a reliable, knowledgeable medical professional.

## **XI. PRIVACY RIGHTS & GUIDELINES FOR PROCESSING REQUESTS FOR INFORMATION**

Applicants and participants, including all adults in the household, are required to sign the THDA Authorization for Release of Information form and the HUD Authorization for Release of Information and Privacy Act Statement (Form-9886), which allow THDA to collect certain information about the client's income, family composition and other factors that affect eligibility and states under what conditions tenant and owner information will be released. The THDA policy regarding release of information is in accordance with these documents, the individual family-authorized verification forms, and federal and state law.

## **A. Processing Requests for Information**

Pursuant to the Tennessee Public Records Act, Tennessee Code Annotated Section 10-7-503(a), records maintained by the Tennessee Housing Development Agency are generally a matter of public record and shall at all times, during business hours, be available for inspection by any citizen of Tennessee. Federal statutes protect certain components of the Section 8 tenant files, including social security numbers, Enterprise Income Verification (EIV) records, medical or disability information and criminal background records. Any and all information that would lead one to determine the nature and/or severity of a person's disability or criminal record is protected. Records protected under federal statutes will not be available for public review.

Any person requesting to inspect a THDA record must make a request in writing and provide information demonstrating that the person is a citizen of the State of Tennessee together with such person's name, address, business telephone number, home telephone number, driver license number or other appropriate identification prior to inspecting THDA records or information.

Generally, if the information requested is relevant to the administration of our programs and/or includes basic program information on one of our programs, we will make copies available at no charge. The Rental Assistance Director will determine if the information requested is outside the general administration of the program.

## **B. Copying Records or Information**

When THDA personnel receive a request to copy a tenant record or other agency information, the following guidelines will be followed:

- If the information requested is available through another resource, such as the THDA website, the individual will be directed to that resource before a record will be copied by THDA personnel.
- If the information is not available through another resource, the individual will be asked to submit their request for copies, in writing, providing a list identifying the records to be copied.
- If the request involves copying records or documents only, the copying charge is 1.00 per page, payable in advance, together with postage, which will vary depending on the number of copies requested. There should be a minimum of five pages copied before there is a charge made.
- Copies will be made and mailed out by regular U.S. mail within seven business days of the date of the request.

When THDA personnel receive a request that involves both reviewing and copying records or information, the following guidelines will be followed:

- The individual will be asked to submit their request to review and copy records and information in writing. The request must be provided at least five business days before the date of review and reviews must be scheduled during normal business hours.
- To address THDA's concerns with maintaining the integrity of the records as originally received by THDA, a THDA staff person will be present during the review. The staff person will not be available to answer questions concerning the records under review.
- The charge for copying records or information, when the request involves a review period and copying, is \$2.00 per page, payable in advance, together with postage, which will vary depending on the number of copies requested. Copies will be mailed out by regular U.S. mail within seven business days of the request.
- At no time will anyone, other than THDA staff, be allowed to operate agency copiers.

## **XII. RULES AND REGULATIONS**

All issues related to HCV participants and not addressed in this document are governed by the code of federal regulations, where applicable, HUD Memos and Notices, and guidelines or other applicable law.

## **XIII. MANAGEMENT ASSESSMENT PROGRAM (SEMAP) [24 CFR 985]**

THDA operates its housing assistance program with efficiency and can demonstrate to HUD and other independent auditors that resources are being used in a manner that reflects a commitment to quality and service. THDA's policies and practices are consistent with the goals and objectives of the following HUD Section 8 Management Assessment (SEMAP) indicators.

1. Selection from the Waiting List [24 CFR 982.54(d)(1) and 24 CFR 982.204(a)]
2. Reasonable Rent [24 CFR 982.4, 982.54(d)(15), 982.158(f)(7) and 982.503]
3. Determination of Adjusted Income [24 CFR part 5, subpart F and 24 CFR 982.516]
4. Utility Allowance Schedule [24 CFR 982.517]
5. HQS Quality Control Inspections [24 CFR 982.405(b)]
6. HQS Enforcement [24 CFR 982.404]
7. Expanding Housing Opportunities [24 CFR 982.54(d)(5), 982.153(b)(3), 982.301(b)(4), 982.301(a), 983.301(b)(5)(13)]
8. FMR Limit & Payment Standards [24 CFR 982.508(a), 982.505(b)(3)]
9. Annual Re-examinations [24 CFR 5.617]
10. Correct Tenant Rent Calculations [24 CFR 982, subpart K]
11. Pre-Contract HQS Inspections [24 CFR 982.305]
12. Annual HQS Inspections [24 CFR 982.405(a)]
13. Lease-up
14. Family Self-Sufficiency Program
  - a. Family Self-Sufficiency Enrollment [24 CFR 984.105]
  - b. Percent of FSS Participants with Escrow Account Balances [24 CFR 984.305]

#### **XIV. RECORD KEEPING**

In order to demonstrate compliance with HUD and other pertinent regulations, records, reports and other documentation will be maintained for a period of five (5) years. The documents will be maintained in a manner that allows an auditor, housing professional or other interested party to follow, monitor and or assess THDA's operations procedures objectively and with accuracy.

The following guidelines are observed:

1. Every pre-application, Personal Declaration, 50058 and all documents related to the applicant or participant are kept in an agency file.
2. All documents are date stamped when received.
3. Tenant information obtained from the pre-application, application, other documents and contact notes also may be maintained in the Section 8 computer database.
4. Tenant files are arranged in chronological order with the most current information on top.
5. A file checklist is used to make sure all required documents are in the file.
6. Active files, ineligible files, and closed files are retained for a minimum of five (5) years. After five years, ineligible and closed files will be destroyed in accordance with Tennessee State records disposition authority procedures.
7. Tenant files are maintained in a place which assures that they are confidential and accessible only to authorized staff. Tenant information maintained in the Section 8 computer database is secured by user password protection.

Records and reports will be maintained to demonstrate or monitor the following Section 8 Management Assessment (SEMAP) indicators:

- At least 98 percent of families were selected from the waiting list in accordance with the Administrative Plan policies and met the correct selection criteria;
- Eighty to 98 percent of randomly selected tenant files indicate reasonable rents to owner were approved at the time of initial lease-up and before any increase in rent;
- Agency practices for obtaining income information, proper calculation of allowances and deductions, and utility allowances used to determine adjusted income for families;
- Local utility rates were examined annually to determine if a 10 percent or greater increase has occurred since the last time the utility schedule was revised;
- During the fiscal year HQS quality control inspections for at least 5 percent of all units under contract were completed;
- A review of selected files indicate that for at least 98 percent of failed inspections, timely correction of HQS deficiencies was made or the HAP was abated (suppressed) or vigorous action taken to enforce family obligations;

- Participation by owners of units located outside areas of poverty or minority concentration was encouraged (Metropolitan Statistical Areas only);
- At least 98 percent of units newly leased in the existing Certificate program have an initial gross rent which does not exceed the FMR, aside from over-FMR tenancies, and voucher payment standards are not less than 80 percent of the current FMR/exception rent limit unless otherwise approved by HUD;
- Annual re-exams are processed for each participating family at least every 12 months;
- Tenant rent is correctly calculated for each participating family;
- Each newly leased units passed HQS inspections before HAP contract date;
- Annual HQS inspections were completed on time for all units under contract;
- Housing assistance contracts were executed for the number of units budgeted during the fiscal year;
- Eighty to 100 percent of FSS slots are filled; and
- At least 30 percent of FSS participants have escrow account balances.

In addition to the SEMAP factors above to ensure quality control, supervisory staff audit the following activities:

- 10 percent of new applications
- 10 percent of annual reexaminations
- 10 percent of interim reexaminations

## **XV. ANNUAL & FIVE-YEAR AGENCY PLANS [24 CFR Part 903]**

Section 511 of the QHWRRA created the Public Housing Annual and Five-Year Plans. The Annual plan provides details about THDA's immediate operations, program participants, programs and services and the Agency's strategy for addressing the needs of the community in the upcoming fiscal year. The Five-year Plan describes THDA's agency mission and long-range goals and objectives for achieving the mission over the five-year time period.

THDA will submit the Annual and Five-year Plans to HUD by April 15 (75 days prior to the beginning of the fiscal year). THDA will meet all HUD-defined criteria for completing and submitting the Plans.

The Annual and Five-year Plans will be available for public review through THDA's website or by written request to view the documents at the THDA Central Office.

## **XVI. REQUIRED REPORTING TO HUD**

The following reports are required to be submitted to the local HUD field office at stated intervals:

1. Administrative Plan as revised
2. Annual and Five Year Plans
3. Section 8 Management Assessment Program (SEMAP) Certification

## **XVII. CONFLICT OF INTEREST**

No present or former member or officer of THDA or any subcontract agency; no employee of THDA or any subcontract agency who formulates policy or influences decisions with respect to the Section 8 Programs; and no public official or member of a governing body; or State or local legislator who exercises functions or responsibilities with respect to the Section 8 Programs will have any direct or indirect interest in a housing assistance payment contract or any proceeds or benefits arising from such a contract as a tenant or owner during this person's tenure or for one year thereafter.

In addition, no member of or delegate to the U.S. Congress will be accepted as a tenant or owner in the programs or allowed to receive any benefits that may arise from it.

THDA reserves the right to request a waiver of the above requirement from HUD if the circumstances indicate that a waiver is warranted.

## **XVIII. EXCEPTION WAIVER POLICY**

THDA's Central Office will accept and review all requests for policy exceptions and waivers that are submitted in writing. The request should be filed in a timely manner and explain what is being requested and the circumstances justifying the request. All pertinent tenant information including the tenant's name, address, phone number and THDA contact person should be included in the correspondence. Information will be verified by THDA if warranted. THDA will make a decision about the request within 30 calendar days of receipt.



## **Chapter 2**

### **APPLICANT PROCEDURES [24 CFR PARTS, SUBPARTS B, D & E, PART 982, SUBPART E]**

#### **I. APPLYING FOR THE PROGRAM**

Tennessee Housing Development Agency strives to ensure that applicants are treated in a fair and consistent manner during the application process. All potentially eligible persons who express a desire to participate in the program are given an equal opportunity to apply for assistance unless the taking of applications has been suspended.

The application process will be undertaken in two phases:

1. A preliminary application (referred to as a pre-application) will be taken when immediate assistance is not available but THDA is accepting applications on an open enrollment basis. Due to the volume of families that apply for the Section 8 program and funding availability, THDA is often unable to offer immediate assistance. Thus, an applicant wait list is maintained when funding is exhausted and all available subsidies are occupied.
2. When the family comes to the top of the waiting list and THDA is ready to pull the family into the applicant pool for final eligibility determination, the family will complete a Personal Declaration for the purpose of the completion of a HUD form 50058, and THDA will verify the necessary information.

If no wait list exists at the time of an application during an open enrollment period, the family may complete a Personal Declaration immediately without completing a pre-application for admission to the waiting list.

#### **II. PRE-APPLICATION PROCEDURES [24 CFR 982.204]**

##### **A. Purpose of Pre-application**

The purpose of the pre-application is to have available a waiting list of potential applicants. Information on a pre-application is not verified on a routine basis. However, if a determination of eligibility is based on the information on the pre-application, the information is verified if the item requires verification. Verification is not made on a routine basis because of the length of time between the submission of a pre-application, and when the household's name will likely come to the top of the waiting list.

##### **B. Who Completes the Pre-application**

A household wishing to apply must complete and sign a written pre-application form. An adult member of the household who is expected to live in the unit and assume full responsibility for meeting program requirements must sign the pre-application. This is usually the head of household or spouse.

Individuals who have an impairment that would prevent them from making application in person may request a reasonable accommodation for a specific arrangement to complete their pre-application..

### **C. Getting on the Waiting List**

The pre-application may be returned to the appropriate office in person, by mail, or the applicant may apply in person during particular times and days and at office locations established by the local field offices for the particular county. Pre-applications are not usually accepted by facsimile.

Once the pre-application is completed, it is stamped with the date and time received. The pre-application is then entered into the Section 8 computer database and sorted by selection criteria for waiting list position. THDA does not do a preliminary determination of eligibility based on the pre-application.

The applicant's name is not added to the waiting list if the pre-application does not contain a complete name and address so that it is possible to communicate with the applicant. A pre-application that does not have a complete name and address is placed in an inactive file.

### **D. Written Notice**

The applicant household is sent a written notice or letter informing them that their name has been placed on the waiting list. The notice informs them that they must report address changes.

If the family is sent a subsequent notice for an eligibility appointment and the notice is returned because of an incorrect address, the applicant's name is removed from the waiting list. If the household is sent a subsequent notice for an interview and they fail to attend the appointment, the applicant's name is removed from the waiting list. In these circumstances, the applicant may re-apply if applications are being accepted. Their name will be placed at the bottom of the waiting list, according to the date and time of application.

### **E. Files**

The pre-application and a copy of all notices or letters are retained in a file.

### **F. Electronic Storage**

Certain information from the pre-application is entered into Housing Pro, the HCV Program computer database, in order to place the applicant's name on the wait list.

### **III. THE OPENING AND CLOSING OF APPLICATION ACCEPTANCE [24 CFR 982.206; 982.54 (d) (1)]**

If THDA is accepting applications on an open enrollment basis and decides that the waiting list contains more households than may be assisted in the next twelve (12) months, the agency will utilize the following procedures for closing and re-opening the waiting list.

#### **A. Closing the Waiting List- Suspending Pre-Application Acceptance**

THDA may suspend the taking of all applications if the waiting list is such that additional applicants would not be able to receive a voucher within 12 months.

When feasible, suspension of application taking will be announced via THDA's website.

#### **B. Accepting Pre-Applications with a Local Preference during the Suspension of Application Acceptance**

THDA will continue to accept pre-applications from applicants who claim a natural disaster local preference during the suspension of pre-application acceptance. If a family claims a natural disaster local preference, THDA will have the family complete a pre-application, and the preference will be verified by a third party source. If the preference cannot be verified by a third party source, the family's name will not be added to the waiting list. The family will have to reapply when the wait list is open.

#### **C. Reopening the Waiting List—Resumption of New Application Acceptance**

When a waiting list is to be re-opened, THDA shall publicly announce the opening per agency public notice policy. The notice will be published in local newspapers, posted in local field offices and posted on the THDA website.

The required notices will provide potential applicants with the necessary information to apply for assistance, including when and where applications are accepted, a telephone number to call, how applications will be accepted, and a brief program description. The notice will comply with Fair Housing requirements.

### **IV. WAIT LIST MAINTENANCE [24 CFR 982.204]**

When there are more applicants than can be issued a voucher in the twelve (12) month time period, a waiting list is established of apparently eligible families. Applicants are selected for the waiting list without regard to race, color, religion, gender, sexual orientation, disability, national or ethnic origin, military or family status or source of income.

The waiting lists are maintained as follows:

- The waiting list is organized by county.

- The waiting list is maintained in a Section 8 computer database and includes:
  1. The date and time of pre-application
  2. County and area specification
  3. Name and social security number of the Head of Household
  4. Current address of the head of household (including zip code)
  5. Mailing address of the head of household (if different from current address)
  6. Local preference specification
  7. Position on the wait list
  8. Program status (eligible, ineligible, housed)
- When the household is sent a notice informing them their name is placed on the waiting list, the notice specifies that the household is required to report address changes. If the family is sent a notice for an eligibility appointment and the notice is returned because of an incorrect address, the household is removed from the waiting list. The returned notice is filed with the pre-application. The household may reapply if applications are being accepted, and their name will be added to the list by date and time of the new application.
- The waiting list is purged as needed. This process involves sending a notice to the households on the list requesting that they contact the local office if they wish to continue on the waiting list. If a purge is conducted and the applicant does not respond by the appropriate time, the name is removed from the waiting list. If the purge notice is returned because of an incorrect address, the household is removed from the wait list. The household may reapply later when the list is re-opened for open enrollment, and their name will be added to the list by date and time of the new application.
- As the waiting list is depleted, if necessary, a public advertisement may be placed to request additional applications.
- An occupant of public housing or any other housing program is not excluded from applying to participate in these programs. However, they must go through the waiting list process. It is not considered a transfer.
- When there are not enough vouchers to assist all of the applicants on a waiting list within twelve (12) months, THDA may suspend the taking of applications. Pre-applications from families that claim a natural disaster local preference are still taken when the waiting list is closed. If the local preference cannot be verified, however, their name is not added to the wait list. They must reapply when the wait list is open.
- When a waiting list is to be re-opened, THDA shall publicly announce the opening per agency public notice policy. The notice will be published in local newspapers, posted in local field offices and posted on THDA's website.
- Any manipulation of the waiting list other than that defined by this plan is grounds for termination of an employee.

## **V. LOCAL PREFERENCES**

Section 514 of the Quality Housing and Work Reconciliation Act (effective October 21, 1998) permanently repeals federal preferences in the selection of families for the Section 8 program. Housing authorities may create their own local preferences.

### **A. Definitions [24 CFR 5.410]**

THDA has adopted the following local preferences (24 CFR 5.410) to receive a priority. The Natural Disaster preference is weighted higher than all other local preferences. The other local preferences are weighted equally.

#### **1. Involuntary Displacement due to Natural Disaster**

Households who have been involuntarily displaced because of a natural disaster (fire, flood, tornado, etc.), which occurred within no more than six (6) months from the date of certification, and who have not secured permanent replacement housing

This preference does not include eviction by a landlord.

#### **2. Households with a Head or Spouse who is Employed**

Households with a head or spouse who is currently employed and who has worked at least 25 hours per week for the past twelve months

#### **3. Households with an elderly or disabled head or spouse who receives Social Security or Social Security Disability Income**

Households with an elderly or disabled head or spouse who currently receives Social Security or Social Security Disability Income

### **B. Pre-Application Acceptance for Natural Disaster Local Preference during Closed Enrollment [24CFR 982.207]**

A pre-application will be accepted from a household that claims a natural disaster local preference at all times, even when application taking has been suspended. Pre-applications will be accepted from families that claim a natural disaster local preference according to the following procedures:

1. At the time the pre-application is accepted, the displacement by natural disaster must be verified by a third party source.
2. If the displacement cannot be verified by a third party source within 30 days of the date of the pre-application during a closed enrollment period, the preference will be denied and the pre-application will not be accepted. The family will be notified at this time of their right to an appeal.
3. If the displacement can not be verified by a third party source within 30 days of the date of pre-application during an open enrollment period, the family will be

placed on the waiting list as a non-preference according to the date and time of their pre-application with no priority.

4. If the displacement is verified by a third party source within 30 days of the date of application AND a voucher is currently available, a Personal Declaration and will be completed and eligibility determined.
5. If the displacement is verified by a third party source within 30 days of the date of the pre-application AND a voucher is not currently available, the household will remain at the top of the waiting list until such time as a voucher is available.

### **C. Pre-Application Acceptance for other Local Preference during a Closed Enrollment Period**

A pre-application will not be accepted during a closed enrollment period for local preferences other than the Natural Disaster preference.

## **VI. UPDATING THE WAITING LIST / PURGING [24 CFR 982.204 (c)]**

THDA will periodically update the waiting list to ensure that it is current and accurate.

THDA will mail a letter to all applicants' last known addresses requesting information regarding their continued interest in maintaining a place on the waiting list. The request letter will include a deadline date by which applicants must inform THDA of their continued interest. Typically, the applicant must notify THDA in writing. Applicants will be given 30 days from the date of the notice to return the letter indicating continued interest in the program. THDA does not accept responsibility for mail delays. If there is no response within 30 days, THDA will send the notice to the applicant for the denial of assistance with an opportunity for an informal review.

If the applicant did not notify THDA of a relocation to a new address as required, THDA will not be responsible for the applicant's failure to receive the update request.

An applicant will be removed from the waiting list if:\*

- THDA fails to receive the applicant's notice of continued interest by the deadline date;
- The applicant requests, in writing or in person, to be removed from the waiting list; or
- The applicant is deceased.

\*Applicants with disabilities who are removed from the waiting list and inform THDA that their non-response was due to their disability may be re-instated to their former position as a reasonable accommodation if they provide the appropriate verifications. See Chapter 1, Accommodations Policy.

## **VII. ELIGIBILITY APPOINTMENTS [24 CFR 982.204]**

When a household reaches the top of the wait list, they are scheduled an eligibility appointment. THDA typically calls in groups of applicants based on the number of vouchers anticipated to be available within a specified time frame.

Households are selected without regard to family size or to the unit size needed by the family. When selected, a household receives the appropriate subsidy for the household size. THDA selects households of any size in order from the waiting list to process for final eligibility determination up to the limit of available funding. The program unit size is not the basis for selection, but the result of selection.

If THDA does not have sufficient funds to subsidize the unit size of the household at the top of the waiting list, THDA will not skip the top waiting list household in order to admit an applicant household with a smaller unit size that can be immediately supported with available funding. In this case, THDA will suspend issuing vouchers until adequate funding levels exist to support the household(s) at the top of each county wait list.

### **A. Notifying Applicants on the Wait List**

When a household reaches the top of the waiting list according to date, time, and any local preference, they are sent a notice or letter with the date, time, and place for an eligibility appointment.

The notice states that if the household does not attend the appointment, the application is denied. If the household re-applies, the application will be placed at the bottom of the waiting list. The household is removed from the waiting list unless THDA can verify with a knowledgeable medical professional that a member, especially the head or spouse, had a documented medical emergency at the time of the appointment. In this case, the family is offered one additional appointment.

The notice also states that the household must arrive on time for the appointment because eligibility briefing appointments are held with groups of applicants. If the household is fifteen (15) minutes or more late and the group briefing has already begun, the family will not be allowed to attend the briefing. Their name will be placed back on the waiting list by date and time, and they will be offered a position at the next regularly scheduled eligibility briefing. A family will only be offered one additional appointment due to late arrival.

### **B. The Interview**

All adult household members are required to be present for the interview. If a family includes a person with disabilities, a reasonable accommodation may be offered, including meeting with the disabled member at their current residence, to facilitate the interview process. The need for a special arrangement may be verified with a knowledgeable physician.

The family is asked to complete a Personal Declaration that is signed by all adult members of the household. The staff reviews the information on the Personal Declaration with the adults, and it is then signed and dated by all adult household members. At that time, staff also reviews the HUD Authorization for Release of Information/Privacy Act Form (with signatures), HUD's Enterprise Income Verification (EIV) System, and the penalties for submitting false statements or information.

The following additional forms must be completed and signed by all adult household members before an eligibility determination may be made:

1. THDA authorization for release of information
2. Applicant/Tenant Certification (Fraud Statement)
3. Citizenship Declaration (to include all household members declared status)
4. Family Obligations/Responsibilities

The following forms or booklets are also explained and a copy given to the household:

1. Housing Discrimination Complaint Form
2. County (ies) Landlord List
3. Things You Should Know brochure
4. Housing Quality Standards (HQS) Summary
5. Informal Review/Hearing Procedures
6. Lead Based Paint brochure

### **C. Verification Process**

Once the Personal Declaration and all other forms required for the eligibility determination are completed and signed, the process of verification begins (see Chapter 4). A final determination of eligibility is not made until all required verifications are received. A criminal background check must be conducted and results evaluated before a household is determined eligible and issued a voucher.

If the applicant does not bring all required verifications to the interview, the household is informed of what is required and given fifteen (15) days to supply the needed verifications. If the needed information / verification is not submitted within the fifteen (15) days given and the applicant has not contacted the THDA field office to request an extension, a Notice of Denial or Termination of assistance is sent. The household may re-apply and be placed at the bottom of the waiting list.

### **D. Determination of Eligibility**

After the verification process is complete, a final determination of eligibility is made. Only one voucher will be issued per application at the time of eligibility determination. The voucher issuance serves as notification of eligibility. If an applicant is determined ineligible, a Notice of Denial is mailed. The notice informs the applicant of the right to an informal hearing.



## **VIII. SPECIAL ADMISSIONS**

A special admission is an admission of an applicant that is not on THDA's waiting list or is admitted without considering the applicant's waiting list position.

If HUD awards THDA funding that is targeted for families living in specified units, such as Section 8 Project-Based Developments:

- THDA will use the assistance for the families living in these units; and
- THDA will admit a family that is not on the THDA waiting list, or without considering the applicant's position on the waiting list.

THDA will maintain records showing that the family was admitted with HUD-targeted assistance.

## **IX. TRANSFER POLICY**

As a general rule, vouchers are issued according to the order of the waiting list with priority being given to families qualifying for a preference. However, there are certain categories of applicant/participant families who will not go on the waiting list but will be offered a voucher before an available voucher is issued to the next family on the THDA waiting list. These categories include the following:

- Participating families relocating to a new housing unit; and
- Families absorbed under portability.

## Chapter 3

### ELIGIBILITY FOR ADMISSION & DENIALS [24 CFR Part 5, Subparts B, D & E, Part 982, Subpart E]

#### I. GENERAL INFORMATION

To be eligible for participation, an applicant must meet HUD's criteria for eligibility determination.

HUD has five factors for eligibility:

1. Family Composition
2. Income Limits
3. Provision of Social Security Numbers
4. Citizenship
5. Other criteria for Admission and Denial that Relate to Prior History

The family's initial eligibility for placement on the waiting list will be made in accordance with the above factors and will not be verified until selection from the waiting list for a voucher occurs.

An applicant or participant is required to complete and sign a Personal Declaration form that includes information about household income and composition required for completion of the HUD 50058 Family Report. The Personal Declaration is completed at initial certification, annual recertification, and as needed for interim changes.

The information on the Personal Declaration that is not accepted based on the family's certification is verified using the HUD required methods. The information is used to make a determination of eligibility.

#### II. FAMILY/HOUSEHOLD COMPOSITION [24 CFR 5.403; 982.201]

The applicant must qualify as a household. A household may be a single person or a group of persons.

A household is generally defined as one or more persons sharing residency (or who intend to share residency) whose income and resources are available to meet the household needs. A household includes persons with or without a child or children. All single persons are eligible if they meet the other eligibility criteria

## **A. Household Relationship Types**

### **1. Head of Household**

The head of household is the adult member of the household who is designated by the household as the head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under state/local law. The head of household is the person who assumes legal and moral responsibility for the household and is listed on the application as head.

A family may not designate a family member as head of household solely to qualify the family as an Elderly or Disabled Household.

### **2. Spouse of Head**

The marriage partner of the head of household who is equally responsible with the head for the legal and moral responsibility of the household. The term “spouse” does not apply to boyfriends, girlfriends, significant others, or co-heads.

### **3. Co-head**

An individual who is equally responsible with the head of household for the legal and moral responsibility of the household. A household may have a spouse or co-head, but not both. A co-head never qualifies as a dependent (example: two elderly brothers).

### **4. Foster Child/Foster Adult**

A member of the household who is under 18 years of age or a member who is a full-time student, 18 years or older, and who is under the parental control and responsibility of someone other than his mother or father.

### **5. Foster Adult**

A member of the household (usually a person with a disability, unrelated to the tenant family who is unable to live alone) who is 18 years of age or older and for whom the family provides necessary shelter, care and protection.

### **6. Youth Under 18**

A member of the household (regardless of disability status) who is under 18 years of age, and is not a foster child.

### **7. Full Time Student over 18**

A member of the household, other than the head, spouse or co-head, or foster

child or adult, 18 years of age or older who carries a subject load considered full-time for students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as a degree-granting institution.

*Note: For home schooling, the student must attend a schedule equivalent to full time student requirements for a regular accredited educational institution, unless the home schooling organization specifically verifies that a lesser number of hours attended qualifies under their program as full time.*

## **8. Live-in Aide**

A person who lives with an elderly, near elderly (at least 50 years of age) or disabled person(s) who:

- a. Has been verified (THDA HM-291) by a physician to be essential to the care and well being of the elderly, near elderly, or disabled family member; and
- b. Is not obligated for the support of the elderly, near elderly, or disabled member; and
- c. Would not be living in the unit except to provide care for the elderly, near elderly, or disabled family member; and
- d. May not be considered the remaining member of the tenant family; and
- e. Is at least 16 years of age.

Additionally, the following factors will be considered in evaluating the approval of a person as a live-in aide:

- a. Whether the person requested to be the live-in aide was residing in the unit as a household member prior to receiving program assistance.
- b. Whether the person requested to be the live-in aide is employed full time, and the physician verifies that the disabled, near elderly or elderly family member needs a full-time live-in aide.
- c. Whether the person requested to be the live-in aide is qualified to provide the necessary care.
- d. If a disabled household member has 24-hour care provided through a rehabilitation or other care agency that provides full-time professional caregivers in rotating shifts over a 24-hour time period, who are not required to sleep in the assisted unit, another person will not be approved as a live-in aide for the household unless the physician specifically verifies that both a live-in aide and 24-hour care provider are essential to the care and well-being of the elderly, near elderly or disabled family member.

## **9. Other Adult**

A member of the household (excludes foster adults), other than the head or spouse or co-head, who is 18 years of age or older on the effective date of action.

### **B. Single/Pregnant Women**

An expectant mother with no other children qualifies for assistance as a household. A household that consists of a single pregnant woman must be treated as a two-person family and issued a 2-bedroom voucher unless the pregnancy terminates prior to issuance, in such case a 1-bedroom voucher would be issued.

### **C. Single, Full Time College Students**

A single, (unmarried) full time college student is not eligible for participation in the voucher program unless he meets the following conditions:

1. The individual has established a household separate from his parents or legal guardians for at least one year prior to the application for admission to the voucher program;
2. The individual must not be claimed as a dependant by his/her parents or legal guardians pursuant to Internal Revenue Service (IRS) regulations;
3. The individual must provide a signed certification stating the amount of financial support (even if zero) that he anticipates receiving from his parents, guardians, or other individuals not living in the household.

### **D. Split Households Prior to Voucher Issuance**

Applicant households may have a change in family/household composition where two parties split into two otherwise eligible households due to divorce or legal separation, and each wants to retain their status (date/time) on the waiting list.

In those instances when a household on the THDA waiting list becomes divided into two otherwise eligible households due to divorce or legal separation, and the new households cannot agree as to which new household unit should continue to retain the position on the waiting list and there is no court determination, THDA must determine which of the newly formed households will retain the placement on the waiting list. To make this determination, the following will be considered:

1. Which household member applied as head of household;
2. Which household unit retains the children or any disabled or elderly members;
3. Restrictions that were in place at the time the household applied:

Documentation as to these factors will be the responsibility of the requesting parties. If documentation is not provided within 15 working days from the family's notification of

change of family/household composition, THDA reserves the right to make the decision based on who is listed as head on the application.

Exceptions are to be requested in writing to the THDA staff in accordance with agency policy.

#### **E. Multiple Families in the same Household**

It is possible to have what appears to be two families in the same household (such as a mother and father and daughter with her own family). If both families apply as a single household unit, they shall be treated as a single-household unit.

#### **F. Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least 51 percent of the time will be considered members of the household. "51 percent of the time" is defined as 183 days of the year, which do not have to run consecutively. When both parents are on the waiting list and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

### **III. INCOME LIMITATIONS [24 CFR 982.201; 982.353]**

#### **A. Income Eligibility**

At the time of admission, the household's gross annual income must be at or below the appropriate income limit as defined by HUD. Seventy-five percent of new admissions each fiscal year must have a gross income at or below the extremely low income limit (30% of area median income). Twenty-five percent of admissions each fiscal year may have an income that is at or below the very low income limit (50% of area median income) or the low income limit (80% of area median income) as defined below.

Income limits apply only at admission and portability (when applicable). Income limitations are not applied at recertification. A family whose income increases so that it is above the extremely low or very low income limit may continue on the program as long as they are otherwise eligible.

To be income eligible, the applicant must be one of the following:

1. An extremely low-income family,
  2. A very low-income family, or
  3. A low-income family in any of the following categories:
- \* A low-income family that is continuously assisted under the 1937 Housing Act. An applicant is continuously assisted under the 1937 Housing Act if the family is

already receiving assistance under any 1937 Housing Act program when the family is admitted to the Voucher Program. The 1937 Act programs include the Public Housing Program and all of the Section 8 project and tenant-based programs (as well as the old Section 23 leased housing and Section 23 housing assistance payments programs. The family will be considered to be continuously assisted in these programs if they have experienced an interruption in assistance of less than 120 days between assisted occupancy of one unit and assisted occupancy of the unit for which they will be assisted.

- \* A low-income family physically displaced by rental rehabilitation activity under 24 CFR part 511.
- \* A low-income non-purchasing family residing in a HOPE 1 or HOPE 2 project.
- \* A low-income non-purchasing family residing in a project similar to a homeownership program under 24 CFR 248.173.
- \* A low-income family displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low income housing under 24 CFR 248.101.

## **B. Income Targeting and Eligibility**

THDA compares the family's annual income to the appropriate income limit established by HUD during the family's initial eligibility interview. THDA will track on a monthly basis, by county, the percentage of new admissions admitted by income to ensure that 75 percent of all new admissions are at or below the extremely low income limit.

The family is considered income eligible if they meet the following criteria:

1. The family's income is at or below the extremely low income limit,
2. The family's income is at or below the very low income limit when no more than 25 percent of families admitted during the fiscal year have incomes at the very low or low income limit,
3. The family's income is at or below the low income limit and meets PHA-specified criteria when no more than 25 percent of families admitted during the fiscal year have incomes at the very low or low income limit.

The family is not considered income eligible (they will be denied admission and informed of their right to an informal review) if:

1. Their income is greater than the extremely low income limit but less than the very low income limit, at a time when only Extremely Low Income families are being admitted to the program.  
*Note: In this case, the family's name will remain on the wait list in order of date and time applied.*
2. Their annual income exceeds the very low income limit, unless they fall into an acceptable low income limit category (see above).  
*Note: In this case, the family's name will be removed from the wait list.*

THDA is exempted from this requirement when providing assistance to low income or moderate income families entitled to preservation assistance under the tenant-based program as a result of a mortgage pre-payment or opt-out (enhanced vouchers).

#### **IV. SOCIAL SECURITY NUMBERS [24 CFR 5.216; 5.218]**

##### **A. Household Members with a Social Security Number at Admission**

Each member of the household who has been issued a social security number by the Social Security Administration at the time of admission is required to provide verification of the number, preferably their original social security card, prior to admission.

##### **B. Household Members without a Social Security Number at Admission**

If a household member does not have a social security number at the time of admission, they must sign a certification that they have not applied for or been issued a social security number. If the household member is under the age of 18 at the time of admission, the certification can be executed by his or her parent or guardian.

The household member must apply for a social security card (a Social Security Administration form SS5 will be given to the member) and submit a copy of the card at the next regularly scheduled annual reexamination.

*If the household member does not have a social security number, the THDA Systems Coordinator must be contacted for an alternate identification number to be used in lieu of the social security number for submission of the required HUD 50058 record. This request must be made prior to completing the certification and entering the record into the Section 8 system.*

##### **C. Verification of Social Security Numbers**

Verification is conducted through the provision of a valid social security card issued by the Social Security Administration (not a copy of the card). If an applicant or participant cannot provide his or her social security card, other documents listed below showing the social security number may be used for verification. One or more of the following documents may be provided:

- Identification card issued by a Federal, State, or local agency;
- Identification card issued by an employer or trade union;
- Identification card issued by a medical insurance company;
- Driver's license;
- Earnings statement or payroll stubs;
- Benefit award letters from government agencies, such as the Social Security Administration or Unemployment;
- Retirement benefit letter;



Life insurance policy;  
Court records, such as: real estate, tax notices, marriage and divorce, judgment or bankruptcy records;

If an applicant or participant is able to disclose the social security number but cannot meet the documentation requirements, the applicant may not be admitted until proper documentation of the social security number is provided. THDA will instruct the family to obtain a duplicate card from the local social security office.

## **V. CITIZENSHIP [24 CFR, Subpart E]**

Section 214 of the Housing and Community Development Act of 1980, as amended, prohibits the making of financial assistance available to persons who are other than United States citizens, nationals, or certain categories of eligible non-citizens. Individuals who are not citizens, nationals, or eligible immigrants may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

THDA's pre-application notifies applicants that they will be required to submit evidence of citizenship or eligible immigration status before they are determined eligible for rental assistance. A formal declaration of citizenship status is signed when the applicant household has been selected from the waiting list, not when the pre-application is submitted.

Each household member, regardless of age, must sign a Citizenship Declaration form (a parent or legal guardian may sign for a minor). When a new member is added to the household and is residing in the unit, he must complete a Citizenship Declaration form. If needed, proper verification procedures must be conducted. If the individual is found to be "ineligible," the family's level of assistance is re-evaluated at that time.

The following guidelines are to be followed concerning citizenship eligibility:

### **A. Family Eligibility**

Mixed Families: A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their assistance will be pro-rated and that they can request a hearing if they contest this determination. [A mixed family that was assisted as of 6/19/95 may be eligible for continued assistance or temporary deferral of termination of assistance if the household members include only the head, spouse, children of the head or spouse, and parents of the head or spouse.]

No eligible members: Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing. [A participant family without any eligible members who was receiving assistance as of 6/19/95 will be eligible for temporary deferral of termination of assistance if the family desires.]

Noncitizen Students: Noncitizen students defined by HUD in the noncitizen regulations are not eligible for assistance. This prohibition on providing assistance extends to noncitizen spouses and children as well. Citizen spouses and/or children are not prohibited from receiving assistance.

A noncitizen student is defined as a noncitizen who:

- Has a residence in a foreign country that the person has no intention of abandoning;
- Is a student who is qualified to pursue full time study; and
- Is admitted to the US temporarily and solely for educational purposes.

Appeals: For this eligibility requirement only, the applicant is entitled to a hearing exactly like those provided for participants.

## **B. Required Documentation**

Every member of the household must submit a signed Citizenship Declaration form. This form must be signed only once. The following verification is required when declaring citizenship status:

1. Citizens and Nationals
  - a. Declaration signed; no verification needed
2. Person claiming Eligible Immigration status who is age 62 or older and was receiving assistance on or before 6/19/95.
  - a. Declaration signed; no verification needed
  - b. Proof of age must be submitted
3. All other persons claiming Eligible Immigration status.
  - a. Declaration signed
  - b. Verification consent form signed
  - c. Verification documentation submitted (must submit original documents for review; copies will be maintained in file)
  - d. THDA initiates the INS-SAVE verification (Primary, and Secondary if required)
4. Persons who self-declare ineligibility.
  - a. List the person on the Listing of Ineligible Family Members; no verification needed

## **C. Time Frame for Submitting Documents**

The citizenship documentation must be submitted by applicants at the time of final eligibility. Participants must submit the forms within 60 days of such request.

Extensions will be granted to family members who request such action in writing and specify the time frame required to secure the documentation. To be eligible for an extension, the individual must:

- Submit the required Declaration certifying Eligible Immigration status; and
- Certify that the evidence needed is temporarily unavailable and that additional time is required; and
- Certify that prompt and diligent efforts will be made to obtain the evidence in the time specified.

#### **D. Family Subsidy Status**

There are six levels of family subsidy status available to families when evaluating their citizenship eligibility status. The critical element is whether or not the family was a participant as of 6/19/95 as not all options are available to families not under lease as of that date.

##### **1. Qualified for Continuation of full Assistance:**

This applies to a family composed of both eligible and ineligible members that was a tenant family in a housing program on June 19, 1995.

Mixed families (families with some eligible and some ineligible members) may qualify for continued full assistance if all three of the following conditions are met:

- a. The family was receiving assistance as of 6/19/95; AND
- b. The family's head of household or spouse has eligible immigration status; AND
- c. The only other people in the family, without eligible immigration status, are the head of household, spouse, or parents and/or children of the head of household or spouse.

##### **2. Eligible for full assistance:**

The entire family is a verified U.S. citizen, U.S. national; or eligible immigrant status with completed INS verification.

##### **3. Eligible for full assistance pending verification of status:**

This applies when the family provides documentation of eligible immigrant status but the INS verification is not completed; and during the hearing process.

##### **4. Not subject to Noncitizen rule:**

The HA opts out of the non-citizen rule.

*Note: THDA does not opt out of the non-citizen rule.*

5. Prorated Assistance:

This applies if one or more family members do not provide acceptable documentation of their citizenship or eligible immigration status. The assistance is prorated based on the percentage of the family that provided acceptable documentation of citizenship or eligible immigrant status.

Prorated assistance is a calculation of subsidy based on the number of members who are citizens or have eligible immigration status.

All mixed families who were receiving housing assistance as of 6/19/95 and all mixed applicant families must be offered prorated assistance.

6. Temporary Deferral of Termination of Assistance:

If a currently assisted mixed family is not eligible for continued assistance, and does not want prorated assistance, the family may be eligible for temporary deferral of termination of assistance if additional time is needed by the family to locate other affordable housing. Under this provision, the family remains at full subsidy for the temporary deferral period.

Temporary deferral is also an option for households assisted as of 6/19/95 that do not have any eligible members.

The temporary deferral period is to enable the family to locate other affordable housing which is defined as appropriate in size for the family, not substandard, and the housing found is not greater than 125% of what the family currently pays towards utilities and rent.

The initial deferral time period granted is for six months. One extension of six additional months may be granted if the family can demonstrate that they have actively searched for other appropriate housing and that no such housing is available. In no case though, should the temporary deferral of termination of assistance exceed one calendar year period.

After the temporary deferral time period has expired, THDA makes available to the family the option of prorated assistance. If the family requests proration, the subsidy is adjusted accordingly and the family remains on the program. If proration is not requested, then the family's assistance is terminated.

## **VI. OTHER CRITERIA FOR ADMISSIONS & DENIALS**

Assistance will be denied an applicant for the reasons explained in this section. All denials of assistance are stated in writing to the applicant. The denial notice informs the applicant of their right to an informal review. A copy of the notice is filed in the applicant's file. Applicants denied admission are eligible to reapply for the program at a later date. Subsequent applications will be added to the waiting list according to the date and time of the application and other THDA policy.

**A. INCOME LIMITS:**

No applicant is admitted to the program whose gross annual income exceeds the Very Low Income Limit (50% of area median) published by HUD, unless the family meets the HUD-defined criteria for admission at the Low Income Limit (80% of area median). At least seventy-five percent of THDA's Section 8 assistance will be targeted to families with incomes at or below the Extremely Low Income Limit (30% of area median).

**B. FAILURE TO COOPERATE IN CERTIFICATION PROCESS:**

Refusal to cooperate by not furnishing information, providing verifications, keeping appointments, and other requirements of the application process may result in denial of assistance. Specifically, the following items constitute a failure to cooperate with the certification process:

1. Failure to provide required information (i.e. Social Security Numbers, citizenship certification, etc.).
2. Failure to keep appointments.
3. Refusal to sign necessary forms and documents.
4. Failure to have all adults in the household present for interviews.
5. Refusing to enter into a HAP contract or to approve a lease (participating owner or management agent).
6. Other actions that interfere with the process.

If an applicant claims he did not receive a request for information or a request to attend an interview, staff determines whether the letter was returned to the office.

1. If the letter was not returned, it is assumed the applicant received the letter unless he can prove otherwise.
2. If the letter was returned, and the applicant can provide evidence that he was living at the address to which the letter was sent, the applicant is reinstated with the date and time of the application in effect at the time the letter was sent.

**D. FRAUD:**

If any member of the applicant family has committed fraud in connection with any federal housing program or other federal or state-funded benefit program (e.g. Housing,

TANF, Social Security Administration programs), the admission may be denied. The application is not denied on this basis without documentation or proof of the alleged fraud. The family may be admitted if the fraud is in connection with a federal or state-funded benefit program if the family was placed under a restitution program or repayment agreement and can verify that their restitution or debt has been paid in full.

**E. THERE IS NO MEMBER OF THE HOUSEHOLD AGE 18 OR OLDER:**

There must be a member of the household age 18 or older for purposes of signing the lease and serving as head of the household. Head of household under age 18 may have minority removed by court.

**F. CONFLICT OF INTEREST:**

If an applicant is a public official, member of a governing body, State or local legislator, or member of the Congress of the United States, who exercises functions or responsibilities with the respect to the program, admission to the program is denied unless HUD grants the applicant a waiver.

**G. OWNER OCCUPIED UNIT:**

No applicant is admitted who owns, has an interest in, or is buying the unit for which he requests subsidy (with the exception of mobile home owners who are leasing a pad, and Homeownership Voucher applicants/participants).

**H. TTP HIGHER THAN THE GROSS RENT:**

If an applicant's income is below the Very Low Income Limits, but the TTP is greater than the Gross Rent, the application is denied because there would be no HAP Payment (new admissions only). A relocation where the family is zero HAP may be processed if the owner is willing to enter into a HAP contract when the housing assistance payment is zero.

**\*\*If there is no HAP payment due to a rental agreement that includes a "free rent" period, the family may be admitted (*see Chapter 9, Section VI, HAP Contract Execution*).**

**I. OUTSTANDING DEBT:**

Admission may be denied to an applicant who has an outstanding debt to THDA or any other public housing authority in connection with Section 8 or public assistance under the US Housing Act of 1937. The debt must be verified and considered current under state law.

The applicant may be admitted if:

- the debt is paid in full;

- the applicant is making regular payments under a court ordered plan of repayment; or
- the applicant obtains a release from the public housing authority.

THDA does not sign plans of repayment or accept partial payments from applicants for debts owed to THDA. Assistance is not denied to applicants for debts other than debts to THDA or another PHA.

THDA will not serve as a collection agency for debts owed to another PHA and will not assume any responsibility for debts to another PHA if the PHA gives a release at the time of admission.

#### J. VIOLATION OF FAMILY OBLIGATIONS:

The application must be denied if the applicant or any household member previously violated the family obligations listed in 24 CFR 982.551 or listed on the voucher in the past three years. The family is denied in this case even if they qualify for a local preference (including natural disaster).

#### K. EVICTION FROM PUBLIC HOUSING:

Denial of assistance will result if the applicant or any household member has been evicted from public housing for any reason within the past three years. The effective date of the eviction must have occurred within the past three-year period. The family is denied in this case even if they qualify for a local preference (including natural disaster).

#### L. THREATENING OR ABUSIVE BEHAVIOR TOWARDS THDA PERSONNEL

Denial of assistance will result if the family engages in or threatens any abusive or violent behavior toward THDA personnel while completing the eligibility process for the Section 8 Program.\*

\*Abusive or violent behavior towards THDA personnel includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, which is customarily used to insult or intimidate may be cause for denial of assistance.

#### M. PRIOR CRIMINAL HISTORY [24 CFR 982.553]

Applicant households that include a member who has engaged in certain criminal activities will be denied admission to the program in order to protect the welfare of the program and community where the household will reside.

##### 1. Mandatory Denial of Assistance for Criminal Activity

HUD regulations require prohibiting program admission to an applicant under the following circumstances:

- a. An applicant has been evicted from federally assisted housing for drug-related criminal activity within the past **three** (3) years (36 months from the date of eviction).

*Denial of Assistance may be waived if:*

1. The drug-related criminal activity involves the use or possession for personal use of a controlled substance if the household member who engaged in the drug-related activity demonstrates successful completion of a supervised drug or alcohol rehabilitation program approved by the PHA.\*

\*Denial of assistance may not be waived when the drug -related criminal activity involves the illegal manufacture, sale, distribution, or the possession with intent to manufacture, sell, or distribute a controlled substance. A supervised drug or alcohol rehabilitation program does not include Alcoholics Anonymous, Narcotics Anonymous or other self-help treatment programs. The family member must provide verification of the completion of a drug or alcohol rehabilitation program.

2. The circumstances leading to eviction no longer exist (e.g. the criminal household member has died or is imprisoned or the remaining household members present appropriate documentation that the criminal household member no longer resides with the family).

- b. An applicant family includes a household member that is subject to a lifetime registration requirement under a State sex offender registration program. Individuals who are subject to a lifetime registration requirement under a State sex offender registration program are always prohibited from receiving Section 8 rental assistance.
- c. An applicant family includes a household member who has *ever* been convicted of a drug-related criminal activity involving the manufacture or production of methamphetamine on the premises of federally assisted housing.

## 2. THDA Discretionary Denial of Assistance for Criminal Activity

HUD regulations allow PHAs local discretion in establishing additional prohibitions to admission of a household when the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before admission, certain criminal activities. Denial of assistance will result if THDA receives information, during the normal process of qualifying an



applicant for admission to the Section 8 Program, upon which THDA may reasonably determine that there is a record of drug-related criminal activity, severe alcohol abuse, violent criminal activity, or other criminal activity that may be a threat to the health and safety of the community where the household will reside.

The applicant household will be denied if any adult household member has a criminal record that contains the following:

- a. Any household member has been convicted\* of a felony drug-related, alcohol-related, violent criminal activity, or other criminal activity in the past twelve (12) months; OR
- b. Any household member has been convicted of two or more misdemeanor drug-related, alcohol-related, violent criminal acts, or other criminal acts in the past twelve (12) months; OR
- c. Any household member has three (3) or more convictions\* for a misdemeanor or felony drug-related, alcohol-related, violent criminal activity, or other criminal activity, one of which is less than three (3) years (36 months) old; OR
- d. Any household member has one or more convictions\* for a felony sex offense in the past ten (10) years or any conviction\* (felony or misdemeanor) of a sex offense involving a minor; OR
- f. Any household member has been arrested two (2) or more times during the past six (6) months or three (3) or more times during the past twelve (12) months (felony or misdemeanor), for a drug-related, alcohol-related, violent criminal activity or other criminal activity.

*\*A criminal conviction occurs when on the date of final judgment (felony or misdemeanor offenses) a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere is entered, and does not include a final judgment that has been expunged by pardon, reversed, set aside or otherwise rendered nugatory. A judgment of pre-trial diversion will be treated as a judgment that is rendered nugatory. Families that include a member with a criminal disposition of pre-trial diversion for a criminal act are eligible to receive assistance. Families that include a household member with a judgment of post-trial diversion following a criminal conviction are not eligible to receive assistance until the terms of diversion are met; record expunged; or the family becomes eligible otherwise.*

*Denial of Assistance may be waived if:*

- a. The drug or alcohol-related activity involves the use or possession for personal use of a controlled substance if the household member who engaged in the drug or alcohol-related criminal activity demonstrates successful completion or current enrollment with successful completion within the specified time frame of the program (documentation must be submitted at the time of completion) of a supervised drug or alcohol rehabilitation program approved by the PHA.\*

\*Denial of assistance may not be waived when the drug or alcohol-related activity involves the illegal manufacture, sale, distribution, or the possession with intent to manufacture, sell, or distribute a controlled substance. A supervised drug or alcohol rehabilitation program does not include Alcoholics Anonymous, Narcotics Anonymous or other self-help treatment programs.

### 3. Definitions

- a. Drug-Related Criminal Activity is defined as:\*

The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell, distribute or use a controlled substance (as defined in the Controlled Substance Act).

- b. Violent Criminal Activity is defined as:\*

Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

- c. Alcohol-Related Criminal Activity is defined as:

-Any pattern of abuse of alcohol by a household member that may interfere with the health, safety, or right to peaceful enjoyment of persons residing in the immediate vicinity of the applicant household. For purposes of denial, a household member must not have engaged in an alcohol-related criminal activity that threatened the health, safety or peaceful enjoyment of the community or neighborhood where the family resided at the time they applied for admission to the program.

- d. Sex Offense is defined as any act defined in Tennessee Code Annotated 40-39-102.\*
- e. Other Criminal Activity: THDA considers the following other criminal activity:

-Any criminal activity that is determined by THDA staff to threaten the health, safety or right to peaceful enjoyment of persons residing in the immediate vicinity of the applicant household. For purposes of denial, a household member must not have threatened the peaceful enjoyment of the community or neighborhood where the family resided at the time they applied for admission to the program.

*\*Criminal activity may occur on or off the unit premises, not just on or near the premises.*

#### 4. Screening for Criminal Activity (Background Checks)

THDA will screen all Section 8 applicants (including the head of household and all household members who are eighteen years of age or older as of the application date) for prior criminal arrests and convictions. Prior to voucher issuance and during all recertifications, the family must provide information to THDA for all adult household members as to the existence of a criminal record.

For applicants, in addition to criminal record information, the family must provide their last known address (city and state), and certify whether they have been evicted from public housing. Based on the family's certification, THDA shall complete and incur the cost of an initial criminal background check and make a determination of program eligibility in accordance with the following procedures:

- a.
  1. The head of household must complete and all household members must sign a THDA a Personal Declaration form that identifies at a minimum the names of all household members, last known address, existence of a criminal record, public housing eviction status, social security numbers, dates of birth FOR ALL HOUSEHOLD MEMBERS as well as whether any member is a registered sex offender. THDA shall review the Personal Declaration form for completeness and, if necessary, may request additional clarification on any of the provided information.
  2. The head of household and all adult household members over eighteen years old are required to sign a Consent Form that authorizes any law enforcement agency to release criminal conviction records concerning the household member to THDA in accordance with federal confidentiality and disclosure requirements. If any household member declines to sign the consent form, THDA is prohibited from authorizing them to receive rental assistance as part of the Section 8 household.
- b. Once the applicant's name is reached on a waiting list and is called into the

THDA office for an eligibility screening review, the THDA Field Representative will contact the appropriate person at the Central Office and request that a criminal records check be conducted on all household members who are eighteen years of age or older. The Field

Representative

will provide all household information necessary to conduct the criminal records check, including information provided by the applicant on prior arrests, convictions and residences.

- c. The Central Office staff member assigned to coordinate the criminal records check will conduct the background checks in accordance with the requirements of the agency/source that the criminal background checks are obtained from (the records check will include both felony and misdemeanor criminal records).
- d. The THDA Central Office assigned staff member will also conduct a search of the Tennessee Sex Offender registry for all household members eighteen years of age or older to identify possible matches.

*The Field Representative is responsible for conducting a check of any previous public housing assistance to determine if the applicant has been evicted.*

e.  
Offender

The results of all criminal background checks and Tennessee Sex

Registry checks received will ONLY be reviewed by the assigned Central Office staff member. All criminal background check documentation will be maintained in a confidential manner at the Central Office.

The head of household, adult household member for which a criminal record was identified and/or their legal counsel may request a copy of the record. THDA will not release the record to any other party. The record will be retained for a period not to exceed ninety (90) days following the eligibility decision and any appeals hearing.

- f. If an applicant applies and is denied due to the results of a criminal background check, then reapplies within ninety (90) days, the criminal background check conducted during the applicant's previous eligibility determination may be used to re-determine eligibility. A new background check is not necessary when the previous criminal background check was conducted within the past ninety (90) days.

5. Positive Criminal Record Identification (“positive hits”)

If the background check identifies the presence of a criminal record that requires a denial or termination of assistance, the THDA Central Office assigned staff member will invoke the following procedures:

- a. The Central Office assigned staff member will notify the local Field Representative of the presence of a criminal arrest or conviction record that would prohibit assistance within 72 hours of receipt of the criminal records check. The Central Office assigned staff member will provide a Criminal Records Check Summary identifying the presence of a criminal records check history for all household members and will indicate on the form if the offense(s) identified prohibits the applicant household from being eligible to receive a voucher, according to THDA administrative policy.
- b. The Criminal Records Check Summary will be maintained in the applicant file.

If the background check identifies the presence of a felony or misdemeanor arrest with a disposition or court date pending within the next 60 days, the application may be held until the disposition is complete to allow a proper decision to be made concerning eligibility. If the background check identifies the presence of a felony or misdemeanor arrest with a disposition or court date pending more than 60 days in the future, the application will be processed. THDA will schedule another criminal background investigation for period after the court date, and may terminate the household's assistance if a criminal record that meets THDA termination requirements is found.

#### 6. Negative Criminal Record Identification

- a. The Central Office assigned staff member will notify within 72 hours of receipt from the criminal records check source, the local Field Representative of the non-presence (negative hit) of a criminal records history for all household members. A Criminal Records Check Summary will be forwarded to the to the Field Representative via fax or mail.
- b. The Field Representative will continue with the regular eligibility determination for the voucher program.
- c. The Criminal Records Check Summary will be maintained in the applicant file.

#### 7. Appeal/Dispute Procedures

The applicant will have the right to appeal and dispute any finding of a criminal record obtained by THDA. The appeal must be made in accordance with *Chapter 15, Complaints and Appeals, THDA Administrative Plan*. THDA may consider the following when rendering a decision at the informal hearing:

- a. For illegal drug use or alcohol abuse by a family member, THDA may consider whether or not the household member is either no longer a member of the household, or whether the household member has successfully completed a supervised drug or alcohol rehabilitation treatment program or is currently enrolled in a supervised drug or alcohol treatment program.

For this purpose, the family must submit evidence of the household member's absence from the household, or successful completion (or enrollment and completion) of a supervised drug or alcohol treatment program. THDA may impose, as a condition of assistance, that a family member who engaged in criminal activity not reside in the assisted unit.

- b. Other documentation that contradicts the criminal background screening conducted by THDA.

## **VII. CHANGES THAT OCCUR BETWEEN FINAL ELIGIBILITY DETERMINATION AND EXECUTED CONTRACT DATE**

Changes that occur during this period may affect eligibility to lease the unit. Applicants that are no longer eligible for the program will be notified of their ineligible status in writing, and are subject to the informal review procedures.

## **VIII. SUITABILITY OF FAMILY**

In issuing a voucher to a family, THDA does not screen for factors that relate to the suitability of the applicant family as tenants. It is the responsibility of the owner to screen voucher holders as to suitability and acceptability. Such factors include (but are not limited to) prior rent paying history, outstanding debts owed to previous owners, history of damage to rental properties, police record, employment, etc.

However, THDA may take into consideration, before issuing a voucher, whether the applicant owes money to this agency or another PHA, or should be denied access to the program because of a history of drug or violent criminal activity or any other reason identified in this chapter.

## **IX. INELIGIBLE FAMILIES**

Ineligible families will be subject to the requirements of THDA's informal review procedures.

## **Chapter 4**

### **VERIFICATION PROCEDURES [24 CFR 982.516, 24 CFR 982.551, 24 CFR 5.230]**

#### **INTRODUCTION**

Tennessee Housing Development Agency must verify all information that is used to establish every family's eligibility and level of assistance. THDA also is required to obtain the family's consent to collect this information. Applicants and program participants must cooperate with the verification process as a condition of receiving assistance. THDA will not and must not pass on the cost of verification to the family.

In order to determine eligibility and the amount of Housing Assistance Payments, the head of household of the family is required to complete a Personal Declaration for the family (THDA form HO-0411) in his or her own handwriting. All adult household members must sign the Personal Declaration, attesting to its accuracy and completeness. THDA must verify all information provided on this Personal Declaration and any other pertinent information as described in this chapter.

THDA follows the verification guidance provided by HUD in PIH Notice 2004-01 Verification Guidance, and the agency will adhere to any subsequent guidance issued by HUD. This chapter summarizes those requirements and provides supplementary THDA policies.

Part I describes the general verification process. More detailed requirements related to individual factors are provided in subsequent parts including family information (Part II), income and assets (Part III), and mandatory deductions (Part IV).

Verification policies, rules and procedures will be modified as needed to accommodate persons with disabilities. All information obtained through the verification process will be handled in accordance with THDA's records management policies.

#### **I. GENERAL VERIFICATION REQUIREMENTS**

##### **A. Family Consent to Release Information [24 CFR 982.516 AND 982.551, 24 CFR 5.230]**

The family must supply any information that THDA or HUD determines is necessary to the administration of the program and must consent to THDA's verification of that information [24 CFR 982.551].

##### **Consent Forms**

At initial certification and at each annual recertification, all adult applicants and participants are required to sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources. This form provides the family's consent only for the specific purposes listed. HUD and THDA may collect information from State Wage Information Collection

Agencies (SWICAs), other wage matching systems and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA).

Adult family members also must sign the THDA Authorization for Release of Information form at initial certification, annual recertification and relocation. Family members may be asked to sign additional and specific consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

Once signed, both forms are considered active for 15 months.

### **Penalties for Failing to Consent [24 CFR 5.232]**

If any family member who is required to sign a consent form fails to do so, THDA will deny admission to applicants and terminate assistance of participants for failure to cooperate with the certification process. The family may request an informal review in accordance with THDA procedures.

## **B. Overview of Verification Requirements**

### **HUD's Verification Hierarchy**

HUD authorizes THDA to use five methods to verify family information and specifies the circumstances in which each method will be used. In general, HUD requires THDA to use the most reliable form of verification that is available and to document the reasons when THDA uses a lesser form of verification. In order of priority, the forms of verification that may be used are the following:

- Up-front Income Verification (UIV) whenever available
- Third-party Written Verification
- Third-party Oral Verification
- Review of Documents
- Self-Certification

Each of the verification methods is discussed in subsequent sections below. Exhibit 4-1 at the end of the chapter contains an excerpt from the HUD notice that provides guidance with respect to how each method may be used.

### **Requirements for Acceptable Documents**

- Any documents used for verification must be originals (not photocopies). The documents must not be damaged, altered or illegible in any way.
- Under no circumstances is a certification or recertification complete without all required verifications.
- When verifications are received, they must be date stamped the date of receipt.



- All verifications, along with the authorization(s) for release of information, are placed in the tenant file.
- When determining eligibility, documents generally must be dated within 60 calendar days before initial issuance of a voucher. For initial move-ins, verifications must be dated no more than 60 days prior to the move-in date. Interim and recertification verifications are valid for 120 days. THDA will accept documents dated up to 6 months before the effective date of the family's reexamination if the document represents the most recent scheduled report from a source. For example, if the holder of a pension annuity provides semi-annual reports, THDA will accept the most recent report.
- Print-outs from web pages are considered original documents.
- The THDA staff member who views the original document must make a photocopy, initial the copy and annotate the copy with the name of the person who provided the document and the date the original was viewed. For documents that cannot be copied for various reasons (including government checks), a Review of Documents form is completed. The form asks for the information, source, date, check number, etc.
- Any family self-certifications must be made in a format acceptable to THDA and must be signed in the presence of a THDA representative. Any information contained in the Personal Declaration is considered to be a self declaration.
- The verification must be reasonable and acceptable to the staff and THDA. If verification furnished by the applicant or tenant appears to be unreasonable or questionable, staff will make every effort to assist the applicant or tenant in providing adequate verification. If the needed verifications continue to be unreasonable or unacceptable, assistance may be denied or terminated.

### **File Documentation**

THDA must document in each tenant file how the figures used in income and rent calculations were determined. All verification attempts, information obtained and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that THDA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached. Staff will use the Verification Tracking form to document all verification attempts and barriers to obtaining verifications.

THDA requires that all heads of household complete a Personal Declaration form in their own handwriting verifying eligibility information at the time of application and when any changes in family income or composition take place. All adult household members must sign the Personal Declaration. The Personal Declaration is placed in the family's file and will be used to assist in the verification process and in the completion of the Form 50058.

### C. Up-front Income Verification (UIV)

Up-front income verification (UIV) refers to THDA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to THDA.

THDA restricts access to and safeguards UIV data in accordance with HUD guidance on security procedures, as issued and made available by HUD.

There may be legitimate differences between the information provided by the family and UIV-generated information. No adverse action can be taken against a family until THDA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through THDA's informal review/hearing process.

THDA currently utilizes the following sources of UIV:

1. **EIV**—HUD maintains the Enterprise Income Verification system to collect wage information from public housing tenants and Housing Choice Voucher participants. An EIV report must be attempted for all previously-assisted tenants during voucher issuance and for every tenant during annual reexamination.
2. **TASS**—HUD maintains the Tenant Assessment Sub System for Social Security and Supplemental Security Income (TASS). A TASS report must be attempted for every client who reports Social Security or SSI income when this verification is not available from EIV.
3. **ACCENT**—The Tennessee Department of Human Services maintains a computer database, ACCENT, which includes income, asset and family composition records for families receiving TANF, food stamps and other transitional benefits through Tennessee's Families First program. THDA has been given permission by DHS to access certain income, asset and family composition records through ACCENT.
4. **Child Support Payment System**—The Tennessee Department of Human Services maintains an Internet-based Child Support Payment System for child support payments paid through the court system. THDA has access to this system when the family provides a member identification number and/or when the family receives other DHS benefits available for review through the ACCENT system.
5. **The Work Number**—The Work Number includes information to verify employment income from employers who report this information to the private company.
6. **SWICA**—The State Wage Information Collection Agency (SWICA) reports for employment and unemployment records are available to THDA currently for a charge of \$5.15 per household member record. Due to the cost of these records, it

is currently financially prohibitive for THDA to access a SWICA record for each household member. Therefore, THDA will request SWICA information only when other methods of verification are unavailable.

### **Definition of Substantial Difference**

UIV information is used differently depending upon whether there is a *substantial difference* between information provided by the family and the UIV information. In "HUD Guidelines for Projecting Annual Income When UIV Data is Available" [HUD website, April 2004], HUD recommends using \$200 per month as the threshold for a substantial difference. THDA will therefore use \$200 per month as the threshold for a substantial difference.

### **When No Substantial Difference Exists**

If UIV information does not differ substantially from family information, the UIV documentation may serve as third-party written verification.

### **When a Substantial Difference Exists**

When there is a substantial difference between the information provided by the UIV source and the family, a THDA staff member will complete the UIV Discrepancy form. If the discrepancy appears to be valid, the staff member will send a letter to the head of household of the family to notify him or her of the discrepancy. If the head of household disputes the discrepancy, the THDA staff member will initiate third-party written verification from the listed employer. If third-party written verification is not available, the staff member will then attempt to obtain third-party oral verification. If the employer cannot be contacted and the head of household continues to dispute the discrepancy, the staff member will note the file but will not count the income in question in calculating HAP or determining any repayment agreement.

Once a discrepancy has been verified, total unreported income will be calculated. At that time, THDA may require a repayment agreement and/or terminate housing assistance. See Chapter 13 for more information on this topic.

## **D. Third-Party Written and Oral Verification**

### **Reasonable Effort and Timing**

Unless third-party verification is not required as described below, HUD requires THDA to make at least two unsuccessful attempts to obtain third-party verification before using another form of verification [VG, p. 15]. If UIV is not available to verify income, a case note should be made in the tenant's file on the Verification Tracking form and in Housing Pro, the Section 8 computer database.

THDA will diligently seek third-party verification using a combination of written and oral requests to verification sources. Information received orally from third parties may be used either to clarify information provided in writing by the third party or as independent verification when written third-party verification is not received in a timely fashion.

THDA may mail, fax, e-mail or hand deliver third-party written verification requests using THDA forms and will accept third-party responses using any of these methods. THDA will send a written request for verification to each required source within 5 business days of securing a family's authorization for the release of the information and give the source 10 business days to respond in writing. If a response has not been received by the 11<sup>th</sup> business day, THDA will request third-party oral verification. A Verification Tracking form will be used to ensure that all reasonable attempts are made to receive the highest level of verification.

The form(s) will not be accepted as verification if they are hand-carried by the family. A THDA staff member will conduct oral third-party verification by contacting the third party by phone to verify written information that is hand-carried by the family.

THDA will make a minimum of three attempts, one of which may be oral, to obtain third-party verification. A record of each attempt to contact the third-party source (including no-answer calls) and all contacts with the source will be documented in the file on the Verification Tracking form. Regarding third-party oral verification, THDA staff will record on the Verification Tracking form in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used and the facts provided.

When any source responds verbally to the initial written request for verification, THDA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

If a third party agrees to confirm in writing the information provided orally, THDA will wait no more than five (5) business days for the information to be provided.

If the written verification is not provided, THDA will use any information provided orally. A THDA staff member will fill out the appropriate verification form with the information provided and will make a note in the file. The staff member may choose to review family-provided documents if any question of the information exists.

### **When Third-Party Information is Late**

When third-party verification has been requested and the timeframes for submission have been exceeded, THDA will use the information from documents, in particular the Personal Declaration, on a provisional basis. The information contained in the Personal Declaration is considered a self certification. The family may be asked to provide a separate handwritten statement in some cases. If THDA later receives third-party verification that differs from the amounts used in income and rent determinations and it is past the deadline for processing the reexamination, THDA will conduct an interim reexamination to adjust the figures used for the reexamination. The family will not be penalized for late third party information, but they will be responsible for repaying HAP and UAP due to underreporting.

## **When Third-Party Verification is Not Required**

### ***Primary Documents***

Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

### ***Certain Assets and Expenses***

THDA will accept a self-certification from a family as verification of assets disposed of for less than fair market value [HCV GB, p. 5-28].

THDA will determine that third-party verification is not available if the asset or expense involves an insignificant amount, making it not cost-effective or reasonable to obtain third-party verification.

THDA will use review of documents in lieu of requesting third-party verification when the market value of an individual asset or an expense is less than \$2,000 annually *and* the family has original documents that support the declared amount.

### ***Certain Income, Asset and Expense Sources***

THDA will determine that third-party verification is not available when it is known that an income source does not have the ability to provide written or oral third-party verification. For example, THDA will rely upon review of documents when THDA determines that a third party's privacy rules prohibit the source from disclosing information. Another example would be when the Social Security Administration (SSA) has refused to respond to requests for third-party verification.

THDA also will determine that third-party verification is not available when there is a service charge for verifying an asset or expense *and* the family has original documents that provide the necessary information.

If the family cannot provide original documents, THDA will pay the service charge required to obtain third-party verification, unless the cost is prohibitive. A self-certification will be acceptable as the only means of verification if the service charge is excessive (more than \$5). The cost of verification will not be passed on to the family.

The cost of postage and envelopes to obtain third-party verification of income, assets and expenses is not an unreasonable cost.

## **E. Review of Documents**

### **Using Review of Documents as Verification**

If THDA has determined that third-party verification is not available or not required, THDA will use documents provided by the family as verification.

THDA may also review documents when necessary to help clarify information provided by third parties. In such cases, THDA will document in the file how a final conclusion about the

income or expense to include in its calculations was arrived. The Verification Tracking form should be used to document all failed attempts to obtain third-party verification.

## **F. Self-Certification**

When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to THDA unless the information is clearly certified on the Personal Declaration.

THDA may require a family to certify that a family member does not receive a particular type of income or benefit.

The self-certification must be written in the family member's handwriting and signed by the family member whose information or status is being verified. All self-certifications must be signed in the presence of a THDA representative.

## **II. VERIFYING FAMILY INFORMATION**

### **A. Verification of Legal Identity**

THDA will require families to furnish verification of legal identity for each household member.

| <b>Verification of Legal Identity for Adults</b>   | <b>Verification of Legal Identity for Children</b>   |
|--|--|
| Certificate of birth, naturalization papers<br>Church issued baptismal certificate<br>Current, valid driver's license or<br>Department of Motor Vehicles<br>identification card<br>U.S. military discharge (DD 214)<br>U.S. passport<br>Employer identification card | Certificate of birth<br>Adoption papers<br>Custody agreement<br>Health and Human Services ID<br>School records |

If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

If none of these documents can be provided, at THDA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to THDA and be signed in the presence of a THDA representative.

Legal identity will be verified for program eligibility and on an as needed basis.

### **B. Social Security Numbers [24 CFR 5.216 and HCV GB, p. 5-12]**

Every family member must provide documentation of a valid Social Security number (SSN), or a self-certification stating that no SSN has been issued at the time of application. The self-certification must be executed personally by any family member 18 or older or by a parent or guardian for a minor. By the time of the first annual recertification, the head of household must present documentation of a valid Social Security number for every family member.

THDA will also accept the following documents as evidence if the SSN is provided on the document:

- Driver's license
- Other identification card issued by a federal, state, or local agency, a medical insurance company or provider, or employer or trade union
- Payroll stubs
- Benefit award letters from government agencies; retirement benefit letters; life insurance policies
- Court records (real estate, tax notices, marriage and divorce, judgment or bankruptcy records)

If the family reports a SSN but cannot provide acceptable documentation of the number, THDA will require a self-certification stating that documentation of the SSN cannot be provided at this time. THDA will require documentation of the SSN within 60 calendar days from the date of the family member's self-certification mentioned above. If the family is an applicant, assistance cannot be provided until proper documentation of the SSN is provided. THDA will instruct the family to obtain a duplicate card from the local Social Security Administration (SSA) office.

For individuals who are at least 62 years of age and are unable to submit the required documentation of their SSN within the initial 60-day period, THDA will grant an additional 60 calendar days to provide documentation.

Social Security numbers must be verified only once during continuously-assisted occupancy.

If any family member obtains an SSN after admission to the program, the new SSN must be disclosed at the next regularly scheduled reexamination. THDA staff members must contact the Systems Coordinator to obtain a HUD alternate ID number for any household member who does not have a Social Security number. This number will be used until the next reexamination when a Social Security number is required. THDA staff should give the THDA systems coordinator the verified Social Security number when it is reported.

The Social Security numbers of household members, such as live-in aides, must be verified for the purpose of conducting criminal background checks.

### **C. Documentation of Age**

A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members, an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

If an official record of birth or evidence of social security retirement benefits cannot be provided, THDA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

Age must be verified only once during continuously-assisted occupancy.

#### **D. Family Relationships**

Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

##### **Marriage**

Certification by the head of household is normally sufficient verification for marriage. If THDA has reasonable doubts about a marital relationship, THDA will require the family to document the marriage with a marriage certificate.

In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

##### **Separation or Divorce**

Certification by the head of household is normally sufficient verification for divorce. A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced if the couple has children. This decree will be used to verify child custody and child support payments.

A copy of a court-ordered maintenance or other court record is required to document a legal separation (applicable for tenants who received a separation in a state other than Tennessee).

If no court document is available, documentation from a community-based agency may be accepted. Self-certification may be required in addition to such documentation.

##### **Absence of Adult Member**

If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer



a member of the family. See Chapter 10, Interim Recertifications, for more information on this topic.

### **Foster Children and Foster Adults**

Third-party verification from the state or local government agency responsible for the foster placement of the individual with the family is required. The following documents are acceptable:

- Court-ordered assignment
- Verification from the Department of Children's Services or other social service agency for foster child placement.

If the documentation is questionable, more than one document may be required to verify foster placement. Self-declaration may be acceptable if no third-party documentation is available.

### **Guardianship of Family Members who are Minors**

If a family has a minor in the household who are not children by birth or adoption and who are not foster children, the head of household must verify that the minor resides in the unit. Proper verification includes school records or documentation from a social services agency with the minor's name and address of the unit. Verification of legal guardianship is not required.

A minor who plans to reside in a household as an adult must provide verification of emancipation from his or her legal guardians. THDA staff are required to report any instances of perceived improper relationships with minors to the local authorities.

### **Pregnant Women**

In order to verify a pregnancy to allow the family a larger unit size, the pregnant woman must provide third-party written verification from a knowledgeable medical professional.

## **E. Verification of Student Status**

THDA requires families to provide information about the student status of all students who are 18 years of age or older. Third-party verification from the school is required (form THDA HM-360). This information will be verified only if the family meets one of the following conditions:

- The family claims full-time student status for an adult other than the head, spouse, or co-head; or
- The family claims a child care deduction to enable a family member to further his or her education.

If the student is home schooled, THDA will contact the local public school superintendent for verification of full-time home school status. The student must participate in home schooling full time to be eligible for THDA student status.

## **F. Documentation of Disability**

THDA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. No staff member of THDA is permitted to inquire about the nature or extent of a person's disability [24 CFR 100.202(c)]. Furthermore, staff members may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If THDA receives a verification document that provides such information, staff members will not place this information in the tenant file. Any such document will be returned to the family or destroyed. Under no circumstances will THDA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at [www.os.dhhs.gov](http://www.os.dhhs.gov).

The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities [VG, p. 24]:

- Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
- Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;
- Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;
- Inquiry into whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance; or
- Inquiry into whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

### **Family Members Receiving SSA Disability Benefits**

THDA will attempt to obtain information about SSA disability benefits through the HUD EIV System when it is available, or HUD's Tenant Assessment Subsystem (TASS). If the HUD EIV System or TASS is not available, THDA will attempt to obtain third-party written/oral verification from the SSA. If third-party verification is not available, the family may provide an original SSA document that confirms the current benefits.

Verification of receipt of SSA benefits or SSI based upon disability is sufficient for verification of disability for the purpose of qualification for waiting list preferences or income disallowances and deductions based on disability.

Receipt of veteran's disability benefits, worker's compensation or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability in 24 CFR 5.603, necessary to qualify for waiting list preferences or certain income disallowances and deductions.

If SSA documents indicate that the family member has a permanent disability, no further verification in the future is necessary. Individuals who receive SSI benefits for a permanent

disability and then lose their SSI benefits (most likely due to employment) do not need to provide new verification of disability once SSI payments cease. If an individual loses his or her SSI benefits because the SSA has determined that the person is no longer disabled, THDA will require third-party verification from a knowledgeable physician (form THDA HM-350) to continue considering the individual as disabled.

### **Family Members Not Receiving SSA Disability Benefits**

For family members claiming disability who do not receive SSI or other disability payments from the SSA, a knowledgeable physician must provide third-party verification that the family member meets the HUD definition of disability (form THDA HM-350). See the Eligibility chapter for the HUD definition of disability. The knowledgeable physician will verify whether the family member does or does not meet the HUD definition.

## **G. Citizenship or Eligible Immigration Status [24 CFR 5.508]**

### **Overview**

Housing assistance is not available to persons who are not citizens, nationals or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This chapter discusses HUD and THDA verification requirements related to citizenship status.

The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual, it need not be collected or verified again during continuously-assisted occupancy [24 CFR 5.508(g)(5)].

### **U.S. Citizens and Nationals**

HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member 18 or older and by a guardian for minors.

THDA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless THDA receives information indicating that an individual's declaration may not be accurate.

### **Eligible Immigrants**

#### ***Documents Required***

All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age and the date on which the family began receiving HUD-funded assistance. Exhibit 4-2 at the end of this chapter summarizes documents family members must provide.

***THDA Verification*** [HCV GB, pp. 5-3 and 5-7]

For family members age 62 or older who claim to be eligible immigrants, proof of age is required in the manner described in 4-II.C. of this plan. No further verification of eligible immigration status is required.

For family members under the age of 62 who claim to be eligible immigrants, THDA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

THDA will follow all USCIS protocols for verification of eligible immigration status.

## **H. Verification of Preference Status**

THDA must verify any preferences claimed by an applicant during the initial eligibility briefing.

THDA offers the preferences to those meeting one or more of the conditions outlined below.

### **1. Involuntary displacement due to natural disaster**

Households who have been involuntarily displaced because of a natural disaster (fire, flood, tornado, etc.) which occurred within no more than six (6) months from the date of certification and who have not secured permanent replacement housing are eligible for the natural disaster preference. This preference does not include eviction by an owner. Families who are eligible for other disaster relief housing assistance do not qualify for this preference.

### **2. Households with a head or spouse who is working**

Households with a head or spouse who is currently employed and who has worked at least twenty-five (25) hours per week for the past twelve (12) months are eligible for the working preference.

### **3. Households with an elderly or disabled head or spouse who receives Social Security or Social Security Disability income**

All households with an elderly or disabled head or spouse who receives Social Security or Social Security Disability income are eligible for this preference.

## **III. VERIFYING INCOME AND ASSETS**

The Income Considerations chapter of this plan describes in detail the types of income that are included and excluded and how assets and income from assets are handled. Any assets and

income reported by the family must be verified. This chapter provides THDA policies that supplement the general verification procedures specified in Part I of this chapter.

## **A. Earned Income**

### **Tips**

Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

## **B. Business and Self-Employment Income**

Business owners and self-employed persons are required to provide the following:

1. An audited financial statement for the previous fiscal year if an audit was conducted. If an audit was not conducted, a statement of income and expenses must be submitted and the business owner or self-employed person must certify to its accuracy.
2. All schedules completed for filing federal and local taxes in the preceding year.
3. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense, computed using straight-line depreciation rules.

If the aforementioned documents are not available, documents such as manifests, appointment books, cash books, bank statements and receipts will be used as a guide for the prior six (6) months (or lesser period if not in business for six months) to project income for the next twelve (12) months. The family will be advised to maintain these documents in the future if they are not available. Any tips should be included in the amounts declared for self-employment income.

At any reexamination, THDA may request documents that support submitted financial statements such as manifests, appointment books, cash books or bank statements.

If a family member has been self-employed less than three (3) months, THDA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months, THDA will require the family to provide documentation of income and expenses for this period and use that information to project income.

### **Child Care Business**

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

However, if the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), verification of income received may be more difficult. THDA will require that the applicant/participant complete a form that shows the name of the child's

guardian, phone number, number of hours child is being cared for, method of payment (check/cash) and the signature of the client certifying to amounts paid for child care (THDA HM-390).

If the family owning the business has filed a tax return, they will be required to provide it.

### **C. Periodic Payments and Payments in Lieu of Earnings**

#### **Social Security/SSI Benefits**

To verify the SS/SSI benefits of applicants, THDA will request a current (dated within the last 60 days) SSA benefit verification letter for each family member who receives Social Security benefits. If the family is unable to provide the document(s), THDA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the applicant has received the benefit verification letter, he or she will be required to provide it to THDA.

To verify the SS/SSI benefits of participants, THDA will obtain information about Social Security/SSI benefits through the HUD EIV System or the Tenant Assessment Subsystem (TASS). If benefit information is not available in HUD systems, THDA will request a current SSA benefit verification letter from each family member who receives Social Security benefits. If the family is unable to provide the document(s), THDA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from [www.ssa.gov](http://www.ssa.gov). Once the participant has received the benefit verification letter, he or she will be required to provide it to THDA.

### **D. Alimony or Child Support**

The way THDA will seek verification for alimony and child support differs depending on whether the family declares that it receives regular payments.

If the family declares that they *receive regular payments*, verification will be sought in the following order.

1. If payments are made through a state or local entity, a record of payments for the past twelve (12) months and any known information about the likelihood of future payments;
2. Third-party verification from the person paying the support;
3. Copy of a separation or settlement agreement or a divorce decree stating amount and type of support and payment schedules;
4. Copy of the latest check and/or payment stubs; or
5. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If the family declares that they *receive irregular or no payments*, in addition to the verification process listed above, the family must provide evidence that it has taken all reasonable efforts to collect amounts due. Appropriate evidence includes the following:

1. A statement from the DHS Child Enforcement Agency or any other agency responsible for enforcing payment that shows the family has requested enforcement and is cooperating with all enforcement efforts; or
2. If the family has made independent efforts at collection, a written statement from the attorney or other collection entity that has assisted the family in these efforts.

Note: Families are not required to undertake independent enforcement action.

### **E. Recurring Gifts**

Applicants and participating families are required to disclose all forms of income including recurring gifts from family members, friends and others. THDA must verify this income and include it when determining the Total Tenant Payment and Housing Assistance Payment.

Applicants must provide a signed self-declaration of the amount received and the frequency of the gift. THDA also will require the person(s) providing the support to sign a form stating the amount of support paid each month (form THDA HM-320). THDA will use the higher of the amounts provided.

If gift amounts vary, an average taken over six (6) months may be used for calculations.

When a family reports that they are no longer receiving the gifts, the family must provide a signed self-declaration stating the termination of the gift. In addition, the person(s) providing the gift will be required to submit a signed certification that he or she has ceased making gift payments to the family.

### **F. Assets and Income from Assets**

#### **Assets Disposed of for Less than Fair Market Value**

The family must certify whether any assets have been disposed of for less than fair market value in the preceding two years. THDA needs to verify only those certifications that warrant documentation [HCV GB, p. 5-28].

THDA will verify the value of assets disposed of only if of the following applies:

- THDA does not already have a reasonable estimation of its value from previously collected information; or
- The amount reported by the family in the certification appears obviously in error.

**Example 1:** An elderly participant reported a \$10,000 certificate of deposit at the last annual reexamination, and THDA verified this amount. Now the person reports that she

has given this \$10,000 to her son. THDA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.

**Example 2:** A family member has disposed of her ¼ share of real property located in a desirable area and has valued her share at approximately \$5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, THDA will verify the value of this asset.

## **G. Net Income from Rental Property**

In order to verify net income from rental property, the family must provide the following:

1. A current executed lease for the property that shows the rental amount or certification from the current tenant; and
2. A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income). If schedule E was not prepared, THDA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement (including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense).

## **H. Retirement Accounts**

When third-party verification is not available for retirement accounts, the type of original document that will be accepted depends upon the family member's retirement status.

Before retirement, THDA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account. The document should not be dated earlier than six (6) months from the effective date of the examination unless the tenant provides proof that statements are only available annually.

Upon retirement, THDA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

After retirement, THDA will accept an original document from the entity holding the account dated no earlier than twelve (12) months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

## **I. Income from Excluded Sources**

THDA must obtain verification for income exclusions only if, without verification, THDA would not be able to determine whether the income is to be excluded. For example: If a



family's 16 year old has a job at a fast food restaurant, THDA will confirm its records verify the child's age but will not send a verification request to the restaurant. However, if a family claims the earned income disallowance for a source of income, both the source and the income must be verified.

THDA will reconcile differences in amounts reported by the third party and the family only when the excluded amount is used to calculate the family share (as is the case with the earned income disallowance). In all other cases, THDA will report the amount to be excluded as indicated on documents provided by the family.

#### **J. Zero Annual Income Status**

Families declaring zero household income must complete a Zero Income Checklist form at initial move-in, interim recertification (every 90 days) and annual recertification. They must certify that no forms of income such as unemployment benefits, TANF, SSI, etc. are being received. Families claiming zero income will have an interim contract every 30-90 days until the family reports some type of income. There is no minimum income requirement, but income reported must be reasonable in relationship to financial commitments reported by the family. For example, if the family reports no income, it is not reasonable that all bills/debts are paid in a timely manner. The Zero Income Checklist form assists the family in determining their actual household income when income is not clearly related to employment or other source. When expenses are greater than income, THDA will call a case conference with the head of household to resolve any discrepancies.

#### **K. Interest Income from Sale of Real Property**

Any interest income from the sale of real property pursuant to a purchase money mortgage, installment sales contract or similar arrangement must be included as family income and verified by THDA.

The family must provide a letter from an accountant, attorney, real estate broker, the buyer or a financial institution stating interest due for next twelve (12) months. (A copy of the check paid by the buyer to the applicant is NOT sufficient since appropriate breakdown of interest and principal are not included.) The family may provide an amortization schedule showing interest for the twelve (12) months following the effective date of the certification or recertification in lieu of a letter.

### **IV. VERIFYING MANDATORY DEDUCTIONS**

#### **A. Dependent and Elderly/Disabled Household Deductions**

The dependent and elderly/disabled family deductions require only that THDA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

## **Dependent Deduction**

THDA will verify that the following is true:

- Any person under the age of 18 for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family or a foster child; and
- Any person age 18 or older for whom the dependent deduction is claimed is not a foster adult or live-in aide and is a person with a disability or a full time student.

## **Elderly/Disabled Family Deduction**

THDA will verify that the head, spouse, or co-head is 62 years of age or older or a person with disabilities.

## **B. Medical Expense Deduction**

The amount of the deduction will be verified following the standard verification procedures described in Part I.

### **Amount of Expense**

THDA will provide a third-party verification form directly to the medical provider requesting the needed information.

Medical expenses will be verified through the following:

1. Applicant's certification as to whether any of the medical expense payments have been or will be reimbursed by outside sources;
2. Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, etc., of the estimated medical costs to be incurred by the applicant and regular payments due on medical bills and the extent to which those expenses will be reimbursed by insurance or a government agency;
3. The insurance company's or employer's written confirmation of health insurance premiums to be paid by the applicant;
4. Social Security Administration's written confirmation of Medicare premiums to be paid by the applicant over the next twelve (12) months;
5. Receipts, canceled checks, or pay stubs that indicate health insurance premium costs, etc., that verify medical costs and insurance expenses also likely to be incurred in the next twelve (12) months;
6. Copies of payment agreements with medical facilities or canceled checks that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months; and/or

7. Receipts (pharmacy statement) or other record of medical expenses incurred during the past twelve (12) months that can be used to anticipate future medical expenses. THDA may use this approach for "general medical expenses" such as non-prescription drugs and regular visits to doctors or dentists but not for one-time, non-recurring expenses from the previous year.

For transportation costs, deductions will be given for mileage (at the IRS rate or the State rate for travel costs), cab receipts for cab fare and verified payments of other forms of transportation such as family and friends (cancelled checks appropriate). All must be related to medical treatment.

Medical insurance deductible amounts may be used as a medical expense if the total medical expenses exceed the deductible amount. A third-party verification form signed by the provider is required, when possible.

If third-party verification is not possible, copies of cancelled checks used to make medical expense payments and/or printouts or receipts from the source will be used. In this case, THDA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. THDA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming twelve (12) months.

If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming twelve (12) months will be used.

In addition, THDA must verify that the following is true:

- The household is eligible for the deduction;
- The costs to be deducted are qualified medical expenses;
- The expenses are not paid for or reimbursed by any other source; and
- Costs incurred in past years are counted only once.

### **Eligible Household**

The medical expense deduction is permitted only for households in which the head, spouse, or co-head is at least 62, or a person with disabilities. THDA will verify that the family meets the definition of an elderly or disabled family provided in the Eligibility chapter of this plan.

### **Qualified Expenses**

To be eligible for the medical expenses deduction, the costs must qualify as medical expenses. See the previous section for itemized expenses.

### **Unreimbursed Expenses**

To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source.

### **Expenses Incurred in Past Years**

When anticipated costs are related to on-going payment of medical bills incurred in past years, THDA will verify the following:

1. The anticipated repayment schedule;
2. The amounts paid in the past; and
3. Whether the amounts to be repaid have been deducted from the family's annual income in past years.

### **C. Disability Assistance Expenses**

Policies related to disability assistance expenses are found in the Income Considerations chapter. The amount of the deduction will be verified following the standard verification procedures described in Part I.

### **Amount of Expense**

#### ***Attendant Care***

Expenses for attendant care will be verified through the following:

1. A doctor's certification that the assistance of an attendant is medically necessary (form THDA .HM-291);
2. The attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments); and
3. The individual's certification as to whether any of those payments have been or will be reimbursed by outside sources.

#### ***Auxiliary Apparatus***

Expenses for auxiliary apparatus will be verified through the following:

1. Third-party verification of anticipated purchase costs of auxiliary apparatus;
2. If third-party is not possible, billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming twelve (12) months; or
3. If third-party or document review is not possible, written family certification of estimated apparatus costs for the upcoming twelve (12) months.

In addition, THDA must verify the following:

- The family member for whom the expense is incurred is a person with disabilities (as described above);

- The expense permits a family member, or members, to work (as described above); and
- The expense is not reimbursed from another source (as described above).

### **Family Member is a Person with Disabilities**

To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. THDA will verify that the expense is incurred for a person with disabilities (See above).

### **Family Member(s) Permitted to Work**

THDA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

THDA will seek third-party verification from a knowledgeable physician indicating that the person with disabilities requires attendant care or an auxiliary apparatus, or that the attendant care or auxiliary apparatus enables another family member, or members, to work.

If third-party and document review verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member or members (possibly including the family member receiving the assistance) to work.

### **Unreimbursed Expenses**

To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

An attendant care provider will be asked to certify that, to the best of the provider's knowledge, the expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

## **D. Child Care Expenses**

Policies related to child care expenses are found in the Income Considerations chapter. The amount of the deduction will be verified following the standard verification procedures described in Part I of this chapter. In addition, THDA must verify that the following is true:

- The child is eligible for care;
- The costs claimed are not reimbursed;
- The costs enable a family member to pursue an eligible activity;
- The costs are for an allowable type of child care; and
- The costs are reasonable.

**Eligible Child**

To be eligible for the child care deduction, the costs must be incurred for the care of a child under the age of thirteen (13). THDA will verify that the child being cared for (including foster children) is under the age of 13 (See earlier in this chapter).

**Unreimbursed Expense**

To be eligible for the child care deduction, the costs must not be reimbursed by another source.

The child care provider will be asked to certify that, to the best of the provider's knowledge, the child care expenses are not paid by or reimbursed to the family from any source.

The family will be required to certify that the child care expenses are not paid by or reimbursed to the family from any source.

The person who receives the payment must complete and sign a verification form. If the child care provider is an individual, he or she must provide his or her name and the amount they are charging the Section 8 applicant/participant for their services (THDA HM-380).

Verification forms must specify the child care provider's name, address, and phone number, the names of the children cared for, and the frequency (number of times the baby sitting occurs), the rate of pay and the typical yearly amount paid, including school and vacation periods.

Note: The expenses incurred to enable a family member to work must not exceed the amount earned. Child care expenses cannot be excluded when a minor household member is being paid by the head of household or other employed adult household member to care for other minor household members. For example, if the head of household pays her sixteen year old child, who lives with her in the assisted residence, to care for other younger siblings, this amount may not be deducted.

**Pursuing an Eligible Activity**

THDA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education or be gainfully employed are actually pursuing those activities.

**1. Information to be Gathered**

THDA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

**2. Seeking Work**

Whenever possible, THDA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases, THDA will request verification from the agency of the member's job

seeking efforts to date and require the family to submit to THDA any reports provided to the other agency.

In the event third-party verification is not available, THDA will provide the family with a form on which the family member must record job search efforts. THDA will review this information at each subsequent re-examination for which this deduction is claimed.

### **3. Furthering Education**

THDA will ask that the academic or vocational educational institution verify that the person permitted to further his or her education by the child care is enrolled and provide information about the timing of classes for which the person is registered. Third-party verification from the school is required (form THDA HM-360).

### **4. Gainful Employment**

THDA will seek verification from the employer of the work schedule of the person who is permitted to work by the child care. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified.

### **Allowable Type of Child Care**

The type of care to be provided is determined by the family but must fall within certain guidelines. THDA will verify that the type of child care selected by the family is allowable.

THDA will verify that the fees paid to the child care provider cover only child care costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

THDA will verify that the child care provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

### **Reasonableness of Expenses**

Only reasonable child care costs can be deducted.

The actual costs the family incurs will be compared with THDA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

If the family presents a justification for costs that exceed typical costs in the area, THDA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

## **V. VERIFYING OTHER ELIGIBILITY FACTORS**

### **A. Debt to Another Public Housing Authority**

Any family who reports that they have lived previously in subsidized or public housing must certify that they have no outstanding debt to another public housing agency. The family must further certify that they were not evicted for drug or criminal activity.

THDA will contact the public housing authority to verify this certification (form THDA HM-170).

### **B. Drug or Criminal Activity**

If a family declares that a member has a pattern of arrests or a conviction for drug-related, alcohol-related, violent criminal activity or other criminal activity on the unit premises or has been evicted for drug or other criminal activity, THDA will verify this information through THDA Criminal Background Procedures. THDA will view a criminal background check on all adult members of the household when determining eligibility.

### **C. Eviction from Public Housing**

If a family or any family member has been evicted from public housing for any reason within the past three years, verification is obtained from the housing authority in that jurisdiction. If verification is obtained, assistance is denied (form THDA HM-170).

### **D. Request for a Larger Unit**

Each family will be eligible for a unit appropriate to the number, sex and age of the family members. When a family requests a larger unit than they qualify for under THDA occupancy standards, the reason or basis for the exception is verified. If a family indicates that they need a larger bedroom size than allowed under THDA's unit size guidelines for medical reasons, the medical reason for the increased unit size allocation must be verified with a physician. When a physician verifies the need for a larger unit, THDA must weigh the financial and administrative burden granting the larger unit size will have on the overall program and its applicants and participants against the individual's need for a larger unit size. If the medical circumstances that necessitate an increased unit size allocation are temporary, the request will not be approved. If the medical circumstances that necessitate an increased unit size allocation are long-term or permanent, the verification must be updated if the family member's medical circumstances change or if the family relocates.



**EXHIBIT 4-1: EXCERPT FROM HUD VERIFICATION GUIDANCE  
NOTICE (PIH 2004-01, pp. 11-14)**

|                                     |   |
|-------------------------------------|---|
| <b>Upfront (UIV)</b>                | <b>Highest (Highly Recommended, highest level of third party verification)</b>  |
| <b>Written 3<sup>rd</sup> Party</b> | <b>High (Mandatory if upfront income verification is not available or if UIV data differs substantially from tenant-reported information)</b> |
| <b>Oral 3<sup>rd</sup> Party</b>    | <b>Medium (Mandatory if written third party verification is not available)</b>  |
| <b>Document Review</b>              | <b>Medium-Low (Use on provisional basis)</b>  |
| <b>Tenant Declaration</b>           | <b>Low (Use as a last resort)</b>   |

| Income Type  | Upfront   | Written Third Party   | Oral Third Party   | Document Review  | Tenant Declaration  |
|--|---|---|--|--|---|
|  | (LEVEL 5)   | (LEVEL 4)   | (LEVEL 3)  | (LEVEL 2)  | (LEVEL 1)   |
| Wages/Salaries   | Use of computer matching agreements with a State Wage Information Collection Agency (SWICA) to obtain wage information electronically, by mail or fax or in person. | The PHA mails, faxes, or e-mails a verification form directly to the independent sources to obtain wage information.  | In the event the independent source does not respond to the PHA's written request for information, the PHA may contact the independent source by phone or make an in person visit to obtain the requested information. | When neither form of third party verification can be obtained, the PHA may accept original documents such as consecutive pay stubs (HUD recommends the PHA review at least three months of pay stubs, if employed by the same employer for three months or more), W-2 forms, etc. from the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available. | The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from earnings. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available. |
|  | Agreements with private vendor agencies, such as The Work Number or ChoicePoint to obtain wage and salary information.  | The PHA may have the tenant sign a Request for Earnings Statement from the SSA to confirm past earnings. The PHA mails the form to SSA and the statement will be sent to the address the PHA specifies on the form. |  |  |   |
|  | Use of HUD systems, when available.   |   |  |  |   |
| <b>Verification of Employment Income:</b> The PHA should always obtain as much information as possible about the employment, such as start date (new employment), termination date (previous employment), pay frequency, pay rate, anticipated pay increases in the next twelve months, year-to-date earnings, bonuses, overtime, company name, address and telephone number, name and position of the person completing the employment verification form. |   |   |  |  |   |
| <b>Effective Date of Employment:</b> The PHA should always confirm start and termination dates of employment.  |   |   |  |  |   |

| Income Type  | Upfront   | Written Third Party  | Oral Third Party   | Document Review  | Tenant Declaration   |
|--|---|--|--|--|--|
|  | (LEVEL 5)   | (LEVEL 4)  | (LEVEL 3)  | (LEVEL 2)  | (LEVEL 1)  |
| Self-Employment  | Not Available   | The PHA mails or faxes a verification form directly to sources identified by the family to obtain income information.  | The PHA may call the source to obtain income information.  | The PHA may accept any documents (i.e. tax returns, invoices and letters from customers) provided by the tenant to verify self-employment income. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not obtained. | The PHA may accept a notarized statement or affidavit from the tenant that declares the family's total annual income from self-employment. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available. |
| <b>Verification of Self-Employment Income:</b> Typically, it is a challenge for PHAs to obtain third party verification of self-employment income. When third party verification is not available, the PHA should always request a notarized tenant declaration that includes a perjury statement. |   |  |  |  |  |
| Social Security Benefits   | Use of HUD Tenant Assessment System (TASS) to obtain current benefit history and discrepancy reports.   | The PHA mails or faxes a verification form directly to the local SSA office to obtain social security benefit information. <b>(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)</b> | The PHA may call SSA, with the tenant on the line, to obtain current benefit amount. <b>(Not Available in some areas because SSA makes this data available through TASS. SSA encourages PHAs to use TASS.)</b> | The PHA may accept an original SSA Notice from the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.   | The PHA may accept a notarized statement or affidavit from the tenant that declares monthly social security benefits. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.                      |
| Welfare Benefits   | Use of computer matching agreements with the local Social Services Agency to obtain current benefit amount electronically, by mail or fax or in person. | The PHA mails, faxes, or e-mails a verification form directly to the local Social Services Agency to obtain welfare benefit information.   | The PHA may call the local Social Services Agency to obtain current benefit amount.  | The PHA may review an original award notice or printout from the local Social Services Agency provided by the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.                            | The PHA may accept a notarized statement or affidavit from the tenant that declares monthly welfare benefits. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.                              |

| Income Type           | Upfront   | Written Third Party   | Oral Third Party  | Document Review   | Tenant Declaration   |
|-----------------------|---|---|---|---|--|
|                       | (LEVEL 5)   | (LEVEL 4)   | (LEVEL 3)   | (LEVEL 2)   | (LEVEL 1)  |
| Child Support         | Use of agreement with the local Child Support Enforcement Agency to obtain current child support amount and payment status electronically, by mail or fax or in person.   | The PHA mails, faxes, or e-mails a verification form directly to the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status. | The PHA may call the local Child Support Enforcement Agency or child support payer to obtain current child support amount and payment status. | The PHA may review an original court order, notice or printout from the local Child Support Enforcement Agency provided by the tenant to verify current child support amount and payment status.<br><b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available. | The PHA may accept a notarized statement or affidavit from the tenant that declares current child support amount and payment status. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available. |
| Unemployment Benefits | Use of computer matching agreements with a State Wage Information Collection Agency to obtain unemployment compensation electronically, by mail or fax or in person.<br><br>Use of HUD systems, when available. | The PHA mails, faxes, or e-mails a verification form directly to the State Wage Information Collection Agency to obtain unemployment compensation information.                                | The PHA may call the State Wage Information Collection Agency to obtain current benefit amount.   | The PHA may review an original benefit notice or unemployment check stub, or printout from the local State Wage Information Collection Agency provided by the tenant.<br><b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.                            | The PHA may accept a notarized statement or affidavit from the tenant that declares unemployment benefits. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.                           |
| Pensions              | Use of computer matching agreements with a Federal, State, or Local Government Agency to obtain pension information electronically, by mail or fax or in person.  | The PHA mails, faxes, or e-mails a verification form directly to the pension provider to obtain pension information.  | The PHA may call the pension provider to obtain current benefit amount.   | The PHA may review an original benefit notice from the pension provider provided by the tenant. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.   | The PHA may accept a notarized statement or affidavit from the tenant that declares monthly pension amounts. <b>Note:</b> The PHA must document in the tenant file, the reason third party verification was not available.                         |



| Income Type  | Upfront   | Written Third Party  | Oral Third Party   | Document Review   | Tenant Declaration   |
|--|---|--|--|---|--|
|  | (LEVEL 5)   | (LEVEL 4)  | (LEVEL 3)  | (LEVEL 2)   | (LEVEL 1)  |
| Assets   | Use of cooperative agreements with sources to obtain asset and asset income information electronically, by mail or fax or in person.  | The PHA mails, faxes, or emails a verification form directly to the source to obtain asset and asset income information.   | The PHA may call the source to obtain asset and asset income information.  | The PHA may review original documents provided by the tenant. <b>Note: The PHA must document in the tenant file, the reason third party verification was not available.</b> | The PHA may accept a notarized statement or affidavit from the tenant that declares assets and asset income. <b>Note: The PHA must document in the tenant file, the reason third party verification was not available.</b> |
| Comments   | Whenever HUD makes available wage, unemployment, and SSA information, the PHA should use the information as part of the reexamination process. Failure to do so may result in disallowed costs during a RIM review. | <b>Note:</b> The independent source completes the form and returns the form directly to the PHA. Agency. The tenant should not hand carry documents to or from the independent source. | The PHA should document in the tenant file, the date and time of the telephone call or in person visit, along with the name and title of the person that verified the current income amount. |   | The PHA should use this verification method as a last resort, when all other verification methods are not possible or have been unsuccessful. <b>Notarized statement should include a perjury penalty statement.</b>       |
| <b>Note:</b> The PHA must not pass verification costs along to the participant.  |   |  |  |   |  |
| <b>Note:</b> In cases where the PHA cannot reliably project annual income, the PHA may elect to complete regular interim reexaminations (this policy should be apart of the PHA's written policies.) |   |  |  |   |  |

| <b>EXHIBIT 4-2: SUMMARY OF DOCUMENTATION REQUIREMENTS<br/>FOR NONCITIZENS [HCV GB, pp. 5-9 and 5-10]</b>   |  |
|--|--|
| <ul style="list-style-type: none"> <li>• <b>All</b> noncitizens claiming eligible status must sign a declaration of eligible immigrant status on a form acceptable to the PHA.</li> <li>• Except for persons 62 or older, all noncitizens must sign a verification consent form</li> <li>• Additional documents are required based upon the person's status.</li> </ul>  |  |
| <b>Elderly Noncitizens</b> <ul style="list-style-type: none"> <li>• A person 62 years of age or older who claims eligible immigration status also must provide proof of age such as birth certificate, passport, or documents showing receipt of SS old-age benefits.</li> </ul>   |  |
| <b>All other Noncitizens</b> <ul style="list-style-type: none"> <li>• Noncitizens that claim eligible immigration status also must present the applicable USCIS document. Acceptable USCIS documents are listed below.</li> </ul>  |  |
| <ul style="list-style-type: none"> <li>• Form I-551 Alien Registration Receipt Card (for permanent resident aliens)</li> <li>• Form I-94 Arrival-Departure Record annotated with one of the following:               <ul style="list-style-type: none"> <li>• “Admitted as a Refugee Pursuant to Section 207”</li> <li>• “Section 208” or “Asylum”</li> <li>• “Section 243(h)” or “Deportation stayed by Attorney General”</li> <li>• “Paroled Pursuant to Section 221 (d)(5) of the USCIS”</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• Form I-94 Arrival-Departure Record with no annotation accompanied by:               <ul style="list-style-type: none"> <li>• A final court decision granting asylum (but only if no appeal is taken);</li> <li>• A letter from a USCIS asylum officer granting asylum (if application is filed on or after 10/1/90) or from a USCIS district director granting asylum (application filed before 10/1/90);</li> <li>• A court decision granting withholding of deportation; or</li> <li>• A letter from an asylum officer granting withholding or deportation (if application filed on or after 10/1/90).</li> </ul> </li> </ul> |
| <ul style="list-style-type: none"> <li>• Form I-688 Temporary Resident Card annotated “Section 245A” or Section 210”.</li> </ul>   | Form I-688B Employment Authorization Card annotated “Provision of Law 274a. 12(11)” or “Provision of Law 274a.12”.   |
| <ul style="list-style-type: none"> <li>• A receipt issued by the USCIS indicating that an application for issuance of a replacement document in one of the above listed categories has been made and the applicant’s entitlement to the document has been verified; or</li> <li>• Other acceptable evidence. If other documents are determined by the USCIS to constitute acceptable evidence of eligible immigration status, they will be announced by notice published in the <i>Federal Register</i></li> </ul> |  |

## Chapter 5

### INCOME CONSIDERATIONS AND DETERMINATION OF TOTAL TENANT PAYMENT [24 CFR PART 5, SUBPART E & F, 982.153, 982.153, 982.551]

#### I. GENERAL POLICY

Income and the Total Tenant Payment (TTP) are calculated in accordance with 24 CFR Part 5 and Part 982. Gross annual income (annual income) is used to determine if the family falls within the Income Limits. Annual income is defined as the gross amount of income (prior to deductions) anticipated to be received by the family during the twelve (12) months after certification or recertification. THDA will include the income of every household member who resides in the assisted unit, including those who are temporarily absent, when calculating income and total tenant payment.

#### II. CALCULATING ANNUAL INCOME [24 CFR 5.609]

Annual income is the total gross amount of income anticipated to be received by all adult household members, including all net income derived from assets. Annual income includes all amounts of income to which the family has access. Federal (IRS) tax returns may be utilized to verify annual income. Income that is temporary, nonrecurring or sporadic and certain other sources of income as defined by HUD are not included.

Any financial assistance, in excess of amounts received for tuition, that an individual receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education (as defined by the Higher Education Act), shall be considered income to that individual, except when financial assistance as described in this paragraph is received by persons over age 23 with dependent children. Financial assistance does not include loan proceeds.

The procedures below are observed for calculating income.

##### A. Current Circumstances

Current circumstances are used to anticipate income, unless verification forms indicate an upcoming change.

**Example:** If the anticipated income from the employer shows a raise in pay, which will occur four (4) months from the effective date of the recertification, income is calculated at the old rate for four (4) months and at the new rate for eight (8) months.

##### B. Previous Year's Income

The previous year's income may be analyzed to determine the amount of income to be anticipated when it cannot be clearly verified. The preferred choice of documentation in this case for employment, unemployment and Social Security income is an Enterprise

Verification System (EIV) report for the prior year. A second preferred document for employment income is the previous year's federal tax return.

**Examples include the following:**

1. Bonuses are anticipated, but the employer does not know how much the bonus will be. The bonuses from last year are used.
2. A family member has a sporadic annual work history (factory production work, temporary services, teacher's aides).
3. The family composition changes, and thus, family income is sporadic (a particular family member moves into and out of the household frequently). \*Federal tax returns may also be used to determine if a spouse is permanently or temporarily absent from the household.

**C. Annualized Income Figure**

All income is converted to an annualized figure to complete rent calculations. The two following methods may be used to do this and vary depending upon the circumstances of the family.

1. Annualize current income and subsequently conduct an interim if the income changes.
2. Average known sources of varying income to compute an annual income calculation; no interim is processed.

**D. Income of Dependents [24 CFR 5.609(c)]**

- Any financial assistance in excess of amounts received for tuition that an individual receives under the Higher Education Act of 1965, from private sources or from an institution of higher education shall be considered income to that individual unless the person is over the age of 23 with dependent children. This includes any income received by a dependent of a household.
- Earned income of minors (household members age 17 and younger) is not counted.
- Payments received for the care of foster children is not counted.

**E. Income of Permanently Absent Household Members**

Income of persons permanently absent will not be counted. The family must sign a certification that the member is permanently absent, and the family will be required to verify that a member is permanently absent. IRS tax records, rental leases, utility bills, department of motor vehicle (DMV) records and other forms of third-party verification may be utilized to determine if a person is permanently or temporarily absent from the household.

**F. Income of Temporarily Absent Household Members [24 CFR 5.609 (a); (a) (1); (b) (8)]**

Income of temporarily absent household member is counted. This includes all household members who are working out of town, serving in the military, or are temporarily absent from the unit for any other reason.

**G. Income of Spouse not Listed on Lease or Claimed as a Household Member**

THDA will count the income of the spouse of the head of the household, even if the spouse is not currently considered a household member, when the following applies:

1. The spouse is temporarily absent;
2. The head of household files a joint income tax return with the spouse, unless the head of household can specifically verify that he did not have access to the joint income; or
3. The spouse shares access to resources, such as checking or savings account with the head of household or another adult household member.

The gross income, including all pay and allowances, is counted as income, regardless of the amount actually sent to the family members remaining in the unit. Exceptions include all income received by military personnel for hazardous duty pay when exposed to hostile fire.

**H. Income of Confined Household Members [24 CFR 982.54 (d) (10)]**

If a household member is confined to a nursing home or hospital on a permanent basis, the family may elect one of the following choices:

1. Include the income of the confined family member and take any deductions for which the individual would qualify; or
2. Exclude the income and not take any deductions for the individual.

**I. Regular Contributions and Gifts [24 CFR 5.609 (a); (b) (7); (c) (9)]**

Regular contributions and gifts from persons outside the household are counted as income. This includes rent and utility payments paid on behalf of the family and other cash or non-cash contributions provided on a regular basis to the family or on behalf of the family.

Casual contributions or sporadic gifts are not counted.

**J. Child Support and Alimony [24 CFR 5.609 (b) (7)]**

Child support and alimony specified in a divorce or separation agreement or child support order is counted unless the family provides appropriate verification that they are not receiving the support (or are receiving a different amount) AND, for child support income, provides documentation that a child support enforcement order has been attempted through



the Department of Human Services (DHS), other enforcement agency or through independent enforcement efforts. A list of child support enforcement offices will be maintained in the Section 8 offices for referral if a household has not attempted to enforce their child support order at the time of application or recertification.

When determining the amount of child support to count as annual income, the following factors will be considered:

1. The amount of child support ordered by the court in a divorce or separation agreement or child support order
2. Up-front verification of an amount received that differs from any court order  
In this case, acceptable documentation is verification from the Department of Human Services Child Support office of actual monthly amounts of child support received (e.g. Child Support Payment Summary).
3. The amount of child support verified through third party verification methods by the child support provider  
This is acceptable only when child support is not ordered or enforced by the court, but rather the two parties have a verbal agreement for support. In this case, the appropriate THDA verification form should be used.
4. A self-declaration from the applicant or tenant when third-party verification from the child support provider is not received  
This is acceptable only when child support is not ordered or enforced by the court, but rather the two parties have a verbal agreement for support. In this case, the appropriate THDA verification form should be used.

When annualizing the child support received, staff should take into consideration the amount currently received, as well as the amounts received over the past year. Child support payments are ordered and paid inconsistently. Thus, the method of calculation will vary dependent upon the circumstances of each case.

**Case Scenario 1:** The child support paid fluctuates frequently from month to month. If the amount fluctuates frequently, the entire 12 months (or available time period) should be considered.

**Example:** Child support of \$100 dollars per month is ordered. Child support received is \$100 in January, \$50 February, \$25 March, \$100 April, \$100 May, \$125 June, \$25 July, \$125 August, \$50 September, \$125 October, \$75 November, \$100 December. To determine annual amount, add all 12 months together which equals \$1,000. To determine monthly amount, divide 12 month total, \$1,000 by 12 which equals \$83.33 per month.

**Case Scenario 2:** The child support has been paid for less than 12 months, and the amount paid has fluctuated. In this case, the amount received should be totaled and divided by the total period of months under consideration to determine the monthly amount.

**Example:** Child support of \$100 per month has been ordered. Child support has been periodically received for the past 6 months. \$100 was received for each of 3 months, and \$25 was received for each of 2 months and \$0 was received for 1 month. In this case, the total received over the 6 month time period is \$350. To determine the monthly amount of child support, divide \$350 by 6 months which equals \$58.33. To determine the estimated annual child support, multiply \$58.33 by 12 which equals \$699.96.

Alimony and child support paid by a household member to someone outside the household is not deducted from gross annual income.

#### **K. Income from a Business [24 CFR 5.609 (b) (2)]**

Income from a business (including self-employed) is counted. The following calculation is used:

net income equals gross income less expenses

Families may treat depreciation (straight-line), interest payments on loans and all expenses other than those for expansion or capital improvements as business expenses.

Withdrawal of cash or assets from a business is counted as income except when the withdrawal is for reimbursement of amounts the family has invested in the business.

#### **L. Contributions to Company Retirement/Pension Funds [24 CFR 5.603 (d)]**

Contributions to company retirement and pension funds are handled in the following manner:

- While an individual is employed, only the amounts the family actually withdraws without retiring or terminating employment are counted as income.
- After retirement or termination of employment, any amount the employee elects to receive as a lump sum (plus periodic payments) is counted.

#### **M. Grants and Scholarships [24 CFR 5.609 (c)]**

In determining eligibility to receive assistance, any financial assistance in excess of amounts received for tuition that an individual receives under the Higher Education Act of 1965, from private sources or from an institution of higher education shall be considered income to that individual unless the person is over the age of 23 with dependent children.

Student financial assistance includes: educational scholarships, educational entitlements, grants, income earned through work-study programs, and financial aid packages including Title IV. Amounts received by veterans for educational purposes are excluded. Financial assistance, including money for food, clothing, personal items and other expenses, from a parent, guardian or other person is counted as income for purposes of determining income eligibility and the rent calculation unless the student resides with the parent, guardian or

other person providing the assistance. If the financial assistance is sporadic, rather than periodic or regular, it would not be counted as income.

If a family member (student) is attending school away from home most of the year, the student will not be considered when determining bedroom size for the family.

#### **N. Lump-sum Payments [24 CFR 5.609 (b) (4); (c) (3); (c) (14)]**

Lump-sum payments or additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance, social security and worker's compensation), capital gains and settlement for personal or property losses are not included in income, but they are included in the asset calculation.

Lump-sum payments caused by delays in processing periodic payments (unemployment, welfare assistance) are counted as income.

When a lump sum is received that is considered income, an interim is processed (unless the event occurs at the time the annual recertification is in process) including the lump sum in the annual income. It is included even if the family has spent the money. The lump sum is included in annual income for twelve months. An interim is set up to remove the lump sum at the end of the twelve months.

Attorney fees may be deducted from lump-sum payments when computing annual income when the attorney's efforts have recovered a lump-sum compensation for the wrongful reduction or denial of a periodic payment and the recovery does not include an additional amount in full satisfaction of the attorney fees. In these situations, the tenant does not actually recover the entire amount of the past-due periodic payments because he must pay the attorney fees.

This situation does not include those in which an amount is withheld from funds otherwise due the tenant to satisfy legitimate financial obligations unrelated to obtaining the income such as:

- Withholding from wages to apply to child support, alimony or a judgment creditor;
- Garnishment for failure to pay child support, alimony, or a judgment creditor.

The situation does not include those where a tenant incurs attorney fees unrelated to asserting a right to a source of income or where no income results from the attorney's actions. These are the financial responsibility of the tenant and are not deducted in determining annual income.

#### **O. Persons receiving SSI who have a Designated Payee**

Persons receiving SSI for a mental, drug or alcohol-related disability who are required to have designated payees are to have their TTP calculation based on the net income available

to the tenant. Net income is defined here as the tenant's gross income minus the actual fee amount charged by the designated payee. This fee is typically 10 percent of the person's SSI and is an administrative or processing fee. Expenses for the tenant that the payee pays out of the SSI amount is not excluded from net income and must be counted.

#### **P. Treatment of Welfare Income Changes Resulting from Welfare Program Requirements**

Families whose welfare assistance (Families First) is reduced specifically because of fraud or failure to participate in an economic self-sufficiency program or comply with a work activities requirement must not have their Section 8 contribution to rent reduced based on the Families First benefit reduction.

The exclusion or reduction of Section 8 rent contribution does not apply when the family has complied with their Families First program requirements, but cannot obtain employment (e.g. the family has complied, but loses welfare benefits because of a durational time limit, such as the five-year time limit for receipt of Families First benefits).

At all times when a request for an income reexamination and rent reduction due to a reduction in Families First income is received, THDA will verify with the local division of the Department of Human Services (DHS) that the family's benefits have been reduced because of non-compliance with economic self-sufficiency requirements, work activities requirements or because of fraud. Verification may be obtained, in written form, directly from the local DHS office, or through the ACCENT computer system. The verification will be maintained in the tenant file.

If verification is obtained from DHS that the family's benefits have been reduced because of non-compliance with economic self-sufficiency requirements, work activities requirements or because of fraud, the family's income must not be reduced for purposes of calculating the family's TTP. Instead, the family's welfare income must be "imputed" during the term of the welfare benefits sanction. THDA will verify with DHS the term of the sanction.

To impute welfare benefits reduction, perform the following calculation:

1. Determine the amount of welfare income received prior to the sanction.
2. Determine the term of the sanction.
3. Offset the amount of additional income the family receives that starts after the welfare sanction. If additional income received after the welfare sanction begins is equal to the amount of welfare income received prior to the sanction, the imputed welfare income is equal to \$0.

**Example:** A family receives \$142.00 in welfare benefits prior to sanction for noncompliance. DHS identifies the term of the sanction as 3 years. The family begins receiving \$100 monthly income from the head of household's babysitting. The imputed welfare income is \$42.00. A THDA staff member would count \$100 per month in

employment income and \$42.00 per month in imputed welfare income during the three year sanction period (or until a change in income is reported).

#### **Q. Treatment of Income for Families First Job Training Participants**

Incremental earnings and benefits resulting from participation in a Families First job training program is disregarded or excluded. When considering whether or not the participant is participating in a job training program, the following will be considered:

1. Does the program have clearly defined goals and objectives?
2. Does the program enhance the individual's ability to obtain employment?
3. Does the program take place in a series of sessions over a specific period of time?
4. Is the program designed to lead to a higher level of proficiency?
5. Does the program have performance standards to measure proficiency?

Training may include (but is not limited to) the following:

- Classroom training in a specific occupational skill
- On-the-job training with subsidized wages
- Basic education

**Incremental income** is defined as the increase in the total amount of welfare, benefits and earnings of a family member prior to enrollment in the training program over the welfare, benefits and earnings of the family member after enrollment in the training program. For example, if a family reported \$185.00 per month in TANF prior to their enrollment in a job training program, and reported \$385.00 in TANF and job training earnings after enrollment in the job training program, the total amount of income excluded is \$200 dollars (\$385 minus \$185), not \$385 dollars. The amounts excluded by this provision are excluded only for the period during which the family member participates in the job training program.

#### **R. Income Disallowances for Families with a Disabled Member**

A household that includes a previously unemployed disabled family member may be eligible for an income disallowance (exclusion from annual income). The income disallowance applies to all households that include a family member with a disability who was previously unemployed (worked less than 500 hours in the last 12 month period) and meets the criteria of at least one of the three categories below.

1. Annual income increases as a result of the employment of a disabled family member who was previously unemployed for one or more years prior to their current employment; OR
2. Annual income increases as a result of increased earnings by a disabled family member who is participating in any economic self-sufficiency or other job training program; OR

3. Annual income increases as a result of new employment or increased earnings of a disabled family member during or within six months after receiving cash assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by DHS.

The disallowance of an individual family member who is disabled is limited to two 12-month terms. The terms are not required to be consecutive but must fall within a lifetime 48-month period (4 years). For example, a person could use his first 12 month exclusion period during the year 2006, and then wait until the year 2008 to use his second 12 month exclusion period. In this case, however, both 12-month terms must fall between the year 2006 and 2010.

The disallowance is applied as follows:

1. **Initial Twelve-Month Exclusion:** During the initial twelve month period (begins on the date a disabled member is first employed (date the family first experiences an increase in annual income attributable to the employment) or the date the family first reports the employment, the increase in income the difference between the family's former income and the increase in earned income of the family member who is disabled.
2. **Second Twelve-Month Exclusion:** During the second twelve month period that the disabled family member is employed or participating in a job training program, the increase in income is 50% of the difference between the family's former income and the increase in earned income of the family member who is disabled.

### III. CONVERTING INCOME TO ANNUAL INCOME

Income is converted to annual income using the following calculations:

- multiply hourly wages by the number of hours worked per week.
- multiply weekly amount by 52.
- multiply bi-weekly amounts by 26.
- multiply monthly amounts by 12.

### IV. ALLOWANCES & CALCULATING ADJUSTED INCOME [24 CFR 5.611]

Adjusted income is annual income minus allowances for dependents, elderly household allowance, child care, medical and handicap expenses.

#### A. Dependent Allowance [24 CFR 5.611; 5.603 (d)]

The dependent allowance is \$480 for each household member who is under 18 years of age or is age 18 and over and a person with a disability or handicap or 18 and over and a full-time student.

The head, spouse, foster child or live-in attendant is never counted as a dependent.

**B. Elderly/Disabled Household Allowance [24 CFR 5.611 5.403 (a)]**

The elderly/disabled household allowance is \$400 per family for all families in which the head or spouse is at least 62 years of age or under age 62 and a person with a disability.

The \$400 is a household deduction (only one per family, even if both head and spouse are elderly or have a disability).

A family may have a member who is elderly, but this person is not the head or spouse. This family does not qualify for the deduction.

**C. Child Care [24 CFR 5.603]**

Reasonable child care expenses for the care of children, including foster children, under the age of 13, may be deducted from annual income if all of the following are true:

1. The care is necessary to enable a family member to work, seek employment or attend school (academic or vocational);
2. The expense is not reimbursed by an agency or individual outside the household;
3. The expenses incurred to enable a family member to work do not exceed the amount earned; and
4. Child care is not to be given as tuition for attending a private school instead of public school.

Child support payments to guardians or estranged partners on behalf of a minor who is not living in the household are not deducted.

Payments to a minor child who lives in the assisted household for caring for other minor children in the household are not deducted. For example, a head of household pays her sixteen-year-old child, who lives with her in the assisted residence, to care for other younger siblings while she is working.

**D. Medical Expense Deduction [24 CFR 5.609 (a) (2); 5.603]**

The medical expense deduction is allowed only for households in which the head or spouse is at least 62, handicapped or disabled.

If the household is eligible for a medical expense deduction, the medical expenses of all family members are counted.

Medical expenses are expenses anticipated to be incurred during the twelve (12) months following certification/recertification which are not covered by an outside source. They may include the following:

- Services of doctors and health care professionals
- Services of health care facilities
- Medical insurance premiums
- Prescription medication\*
- Non-prescription medicines that are prescribed by a doctor with a specific dosage
- Transportation to treatment
- Dental expenses, eyeglasses, hearing aids, batteries, etc.
- Live-in or periodic medical assistance
- Monthly payment on accumulated medical bills
- Medical care of a permanently institutionalized family member if his/her income is included in annual income
- Allowable medical expense is that portion of total medical expenses in excess of three percent of annual income.

When it is unclear as to whether or not to allow an item as a medical expense, IRS Publication 502 is used as a guide.

\*If a person has a Medicare Prescription Drug Card, THDA will deduct the actual out-of-pocket expenses of the prescription medication. THDA also will deduct the premium amount of the drug card if it is not reimbursed by another source. If a person is participating in the transitional Medicare drug program (to be in effective until May 2006 or until further notice), the total cost of each prescription will be deducted without taking any discount into account. When the individual receives a Medicare Prescription Drug Card, then the actual out-of-pocket expense will be deducted.

#### **E. Allowance for Disability Assistance Expenses [24 CFR 5.611 (c)]**

Families may deduct anticipated expenses for care attendants and “auxiliary apparatus” for family members with a handicap or disability if such expenses meet the following criteria:

1. Enable a family member (including the person with a handicap or disability) to work;
2. Exceed three percent of Annual Income; and
3. Do not exceed the earned income of the household member(s) enabled to work.

Auxiliary apparatus are items such as: wheelchairs, ramps, adaptation to vehicles, special equipment to enable a blind person to read or type, etc. if directly related to permitting the person with the handicap or disability to work.

The amount cannot be paid to a family member living in the household.

The amount cannot be reimbursed by some other source.

**NOTE: THERE IS A SPECIAL CALCULATION REQUIRED FOR HOUSEHOLDS WHO ARE ELIGIBLE FOR BOTH DISABLED AND MEDICAL EXPENSES:**



Three percent of annual income must first be deducted from the handicap expense. Any remainder is then deducted from the total medical expense.

## **V. MINIMUM INCOME REQUIREMENT**

There is no minimum income requirement, but income reported must be reasonable in relationship to financial commitments reported by the family. For example, if the family reports no income, it is not reasonable that all bills/debts are paid in a timely manner. The Zero Income Checklist form assists the family in determining their actual household income when income is not clearly related to employment or other source.

Families declaring zero household income must complete a Zero Income Checklist form at initial move-in, interim recertification, and annual recertification. Families claiming zero-income have an interim contact every 90 days until the family shows some type of income.

## **VI. ASSETS [24 CFR 982.516]**

When a family claims an asset(s) with a value of \$2,000 or greater, third-party written verification must be attempted. If the family claims an asset(s) that is valued at less than \$2,000, the asset(s) may be verified by a review of documents provided by the family, such as a review of bank statements or quarterly reports. When monthly bank statements or other documents are provided, at least six (6) consecutive month's statements for checking accounts and the most recent savings account statement are required.

### **A. Family Assets Included**

Family assets include the following:

1. Amounts in savings and checking accounts
2. Stocks, bonds, savings certificates, money market funds, and other investment accounts, such as 401K accounts
3. Equity in real property or other capital investments  
Equity is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs that would be incurred in selling the asset.
4. Cash value of trusts that are available to the household (not including irrevocable trusts)
5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in a penalty
6. Contributions to company retirement/pension funds:

- While an individual is employed, count only amounts the family can withdraw without retiring or terminating employment.
  - After retirement or termination of employment, count as an asset any amount the employee elects to receive as a lump sum.
  - Include in annual income any benefits received through periodic payments.
7. Assets that, although owned by more than one person, allow unrestricted access by the family (such as joint checking or savings accounts)
  8. Lump-sum receipts such as inheritances, capital gains, social security, lottery winnings, insurance settlements and other claims.
  9. Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc.
  10. Cash value of life insurance policies  
Note: Whole life insurance has a cash value, but term life insurance does not have a cash value.
  11. Assets disposed of for less than fair market value during the two years preceding the certification or recertification  
The difference between the market value and the actual payment received is counted.

## **B. Family Assets not Included**

The following family assets are not included:

1. Personal property
2. Interest in Indian trust lands
3. Assets not accessible by the family  
In the case that a family member is listed as a beneficiary or is a joint holder of an asset that he claims he does not have access, third-party verification may be obtained to verify the inaccessibility of the asset to the family member.
4. Assets that are a part of an active business or farming operation

## **C. Calculation of Income from Assets**

When the net family assets are \$5,000 or less, the actual income from the asset is used.

When the net family assets are more than \$5,000, the amount used is the greater of the following:

1. Actual income from the assets; or
2. The imputed value of the assets based upon passbook rate approved by HUD (2.0%).

#### **D. Assets Disposed of for Less than Fair Market Value [24 CFR 5.603 (d) (3)]**

During any twelve month period, a family may dispose of assets worth \$1,000 for less than the fair market value and not be charged any imputed income on that amount. An example includes contributions to charity. If the household disposes of more than \$1,000 in assets during a twelve month period, the amount must be imputed and counted as income. The Personal Declaration requires the household to declare if a member has disposed of any asset during the last two years. If the household declares that they have, the circumstances surrounding the transaction is verified.

Imputed income is the difference between the actual amounts received and the fair market value, minus any costs incurred when selling the asset. Imputed income is included in household income for two years from the date when the asset was disposed.

Generally, assets disposed of as a result of divorce or separation are not considered as assets disposed of for less than fair market value. Assets disposed of as a result of foreclosure or bankruptcy are not considered as assets disposed of for less than fair market value.

### **VII. CALCULATING THE TOTAL TENANT PAYMENT [HUD form 50058]**

Effective October 1, 1999, the Section 8 Certificate and Voucher programs were statutorily merged into a single program, the Housing Choice Voucher program. At initial move-in, relocation, annual and interim reexaminations, an application (form HUD-50058) is completed that includes a worksheet for calculating Total Tenant Payment.

To calculate the TTP for a Housing Choice Voucher, the following procedures are followed:

1. Calculate the gross annual income.
2. Calculate any allowances and/or expenses to determine the total annual deductions.
3. Calculate the adjusted annual income.
4. Calculate the monthly gross income and the monthly adjusted income.
5. TTP is the higher of the following:
  - \$50 minimum rent OR
  - 10% of gross monthly income OR
  - 30% of adjusted monthly income

## **VIII. MINIMUM RENT EXCEPTION FOR FAMILY HARDSHIP**

The QHWRA establishes certain exceptions to the minimum rent requirements for hardship circumstances. Financial hardship, for the purpose of determining a minimum rent exception includes the following situations:

1. The family has lost eligibility or is awaiting an eligibility determination for a Federal, State or local assistance program (includes a member who is a noncitizen lawfully admitted for permanent residence who would be entitled to public benefits);
2. The family would be evicted as a result of the imposition of the minimum rent requirement;
3. The income of the family has decreased because of changed circumstances, including loss of employment;
4. A death in the family has occurred; or
5. Other circumstances as determined by HUD.

If a family requests a minimum rent exception, the minimum rent requirement is immediately suspended (the first of the month following the receipt of the request) until a determination is made whether:

- The hardship meets the requirements listed above; and
- The hardship is temporary or long-term.

The following guidelines are followed after the hardship is verified (see Verification below):

1. If it is determined that the reported hardship does not meet the criteria defined above, the minimum rent is imposed (retroactive to the date of the suspension). In this case, a plan of repayment must be established to retrieve the previously suspended tenant rent contribution.
2. If it is determined that the reported hardship meets the above-defined criteria, but is temporary in nature, the minimum rent also is imposed (retroactive to the date of the suspension). A plan of repayment must be established to retrieve the previously suspended tenant rent contribution. If the family at some point in the future demonstrates that the financial hardship developed into a long-term situation, the family's minimum rent requirement will be retroactively reduced.
3. If it is determined that the hardship is of a long-term basis, the family is exempted from the minimum rent requirement (retroactive to the first of the month following the date the family's request was received).

## **Verification Requirements**

The family must verify that the hardship exists within 90 days. Acceptable verification includes the following (but is not limited to):

1. A death certificate for a family member;
2. A separation letter from an employer; or
3. A notification letter that benefits have been terminated or an award is pending from the Social Security Administration or other social services agency.

During the 90-day verification period, the family's assistance may not be terminated for nonpayment of rent.

## Chapter 6

### APPLICANT BRIEFINGS & HOUSING CHOICE VOUCHER ISSUANCE [24 CFR 982.301; 982.302; 982.506 (b) (2)]

#### I. GENERAL POLICY

When an applicant's name reaches the top of the waiting list, the Section 8 staff conducts an eligibility briefing with the applicant family for the general purpose of determining eligibility, explaining how the program works, and issuing the voucher for households determined eligible. All families are required to attend a briefing when their name reaches the top of the list. Either an individual or group briefing may be held depending upon the number of applicants issued vouchers at any particular time. An individual briefing may be held at an applicant's home if the family is disabled and requests an individual briefing as a reasonable accommodation.

If the household fails to attend the eligibility briefing appointment, their name is removed from the waiting list. The only exception granted is for households who verify a medical emergency on the date of the appointment. The appointment may only be rescheduled if a family has a medical emergency that conflicts with the eligibility appointment.

All briefings will be conducted in English. If an applicant does not speak English and does not have a household member or other party that is willing to interpret, an interpreter will be provided.

#### II. BRIEFING TOPICS [24 CFR 982.301]

The oral briefing includes, but is not limited to, the following topics:

##### A. How the program works

- How the Total Tenant Payment is calculated
- How tenant rent, HAP and maximum initial rent burden are calculated
- Approximately how much the tenant will pay and how much THDA will pay, including information on utility allowances and an explanation of Payment Standards
- The number of bedrooms (size of unit) for which the family qualifies
- Housing Quality Standards and inspection procedures
- Lease and Housing Assistance Payment contract requirements
- Process involved once a unit is located (Request for Tenancy Approval)
- The tenant information THDA makes available to prospective landlords  
*THDA will share any information in our files about current and previous landlords and any information about previous evictions or convictions for drug-related or criminal activity.*
- Family Self-Sufficiency (FSS) program

- Appeal and Hearing Procedures
- Fraud
- Boundaries of the geographical area in which the family may lease a unit
- Information on Lead-Based Paint
- Non-citizen Requirements

## **B. The household responsibilities**

The household's responsibilities are defined by the lease, contract, voucher and THDA's family obligations and responsibilities form.

## **C. The owner's responsibilities**

The owner's responsibilities are defined by the lease and Housing Assistance Payments contract.

## **D. Where a family may lease a unit**

In general, the family may lease a unit anywhere in the county where they applied.

If the household requests to transfer or port their voucher to a location outside of the county where they applied and they resided in that county at the time of pre-application, their request will be honored, granted the rules of portability are followed.

If the county in which the family was living at the time they submitted the pre-application is not the same as the county for which the family is called in off the waiting list, then the family must lease a unit in the county for which they were called in from the waiting list for 12 months before becoming eligible to relocate to another county. In addition, in this case, if the family submits a mutual recision within the initial twelve months of their voucher assistance, the family must relocate to another unit within the same county.

A list of landlords willing to lease a unit and/or known units available for the size voucher issued are available upon request. If the family includes a person with disabilities, THDA may provide assistance in locating accessible units and a list of available accessible units known to THDA.

## **E. High-Poverty Census Tracts**

If the household is currently living in a high-poverty census tract, THDA will explain the benefits of moving to an area that does not have a high concentration of impoverished families.

## **F. Portability**

For those families qualified to lease a unit outside THDA's jurisdiction, the briefing must explain how portability works.

## **G. Denial/Termination**

The reasons for which THDA may deny or terminate assistance for a participant family because of a family action or failure to act is explained during the briefing.

## **III. BRIEFING PACKET [24 CFR 982.301]**

At the time of the briefing, the applicant is given a Housing Choice Voucher Applicant Booklet, which contains pertinent information about the Section 8 program. The booklet includes at least the following information:

- Introduction
- Term of the voucher
- THDA policy on how and when to request extensions of the Voucher term
- How THDA determines HAP, TTP, tenant rent, Payment Standards and Utility Allowance
- How the maximum initial rent burden is calculated
- How THDA determines the maximum rent for an assisted unit, including the rent reasonableness standard
- What the family should consider when selecting a unit
- Condition of the unit
- Whether the rent is reasonable
- Cost of any tenant-paid utility (energy efficiency of unit)
- Location of unit (access to transportation, employment, schools, shopping, etc.)
- Where the family may lease a unit
- Portability information
- THDA's model lease
- Request for Tenancy Approval
- Statement of what information the agency makes available to prospective landlords
- THDA's subsidy standards—the number of bedrooms (unit size) and how the voucher size relates to the unit size selected
- HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS
- HUD lead-based paint brochure and information about where blood-lead level testing is available
- Information on how to fill out and file a discrimination complaint form, including the pamphlet, "Fair Housing: It's Your Right;" Equal Opportunity Housing information and a Housing Discrimination Complaint Form
- Information on carbon monoxide poisoning
- Family obligations under the Voucher program
- Grounds on which THDA may terminate assistance
- THDA's informal hearing procedures (when THDA is required to offer and how a family requests a hearing)
- Procedures for reporting interim changes



- Procedures for reporting fraud and abuse
- Family's rights as a tenant and a program participant
- Information on the noncitizens rule
- Information on Family Self Sufficiency

#### **IV. RELOCATION BRIEFING**

A relocation briefing may be held for participants who will be allowed to relocate, having been recertified (within the past 120 days) and having given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portables.

Families failing to attend two scheduled relocation appointments without rescheduling in advance will be denied a relocation voucher for failure to provide required information, and may be terminated from the program for failure to cooperate with the recertification process.

#### **V. OWNER BRIEFINGS**

Briefings are held for new, current or prospective owners at their request. The purpose of the briefing is to ensure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties (tenant, landlord and PHA). For those not able to attend a briefing, THDA supplies a Landlord Information Booklet with information pertinent to the program.

If a group briefing is held, current owners are notified through a newsletter attached to their monthly HAP payment. A public notice will also be placed in THDA's Agency newsletter, *Housing Matters*, published in local newspapers and posted in local field offices. The purpose of the briefing is to ensure successful owner participation in the program.

#### **VI. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION**

At the initial and relocation briefing, households are encouraged to search for housing in non-impacted areas, and THDA will provide assistance to households who wish to do so.

The assistance provided includes the following:

- Direct contact with landlords
- Counseling with the family
- Providing information about services in various non-impacted areas
- Formal or informal discussions with landlords
- Formal or informal discussions with social service agencies
- Meetings with fair housing representatives or agencies

## **VII. HOUSING CHOICE VOUCHER ISSUANCE [24 CFR 982.204(d); 982.54(d) (2)]**

Upon completion of final determination of eligibility, the applicant is issued a voucher, which is a contract between THDA and the household specifying the rights and responsibilities of each party. This is the household's authorization to search for a unit.

The following principles are applied to issuance of a voucher:

1. Vouchers are issued when contract authority is available either through a new allocation or turnover of vouchers held by participating families.
2. Enough vouchers are issued to meet leasing schedules for all new allocations and to maintain an occupancy rate of at least 98 percent of funds available after initial lease-up.
3. THDA maintains a system of tracking the number of vouchers held by participating families and the number held by applicants searching for housing. The system indicates the specific project number of the allocation and the bedroom size.
4. THDA honors all non-expired vouchers, even if it means being over-leased for a period of time.
5. Any over-issuance for the purpose of maintaining 98% or better occupancy is closely monitored so that over-leasing does not continue for a lengthy period of time. When over-leasing occurs, the issuance of vouchers ceases long enough to bring the number leased down to the authorized level.
6. Regardless of the number of outstanding vouchers, THDA issues a voucher if it is necessary to achieve the following:
  - move an overcrowded participating family; or
  - move a participating family who is occupying unsafe housing if the owner refuses to make repairs.
7. The voucher shows the unit size for which the household qualifies. *Also see Chapter 7, Subsidy Standards.* The unit size reflects the smallest number of bedrooms for which the family qualifies in order to comply with occupancy and HQS requirements.
8. No Voucher is issued to a family until the family's eligibility has been determined. At issuance, a briefing is conducted to explain the elements of the program and to answer any questions. *Also see Section II, Briefing Topics.*
9. As part of the initial and relocation briefing process, staff gives suggestions to the family on how to find a unit and names of participating owners. However, finding and selecting a unit is the family's responsibility.

10. Any family participating in another housing program (besides Housing Choice Voucher), such as public housing, must apply and go to the bottom of the waiting list process. They are not given a priority.

### **VIII. HOUSING CHOICE VOUCHER TERM [24 CFR 982.302; 982.303]**

THDA follows the procedures outlined below when issuing vouchers, setting terms of vouchers and assisting families in selecting units.

1. A voucher is issued for an initial term of sixty (60) days. The Section 8 software system will be utilized to print vouchers, and the voucher term will begin on the date the voucher is issued.

If a voucher can not be issued to the household during the eligibility briefing because all required documentation is not complete, the household is requested to sign a blank voucher or a voucher with current date information. When the voucher is mailed to the household, a new voucher will be printed with updated information and attached to the original signed voucher. Both copies will also be placed in the tenant file.

2. If the family does not find a unit within the initial term (sixty days) and the head or spouse is disabled and requests an extension for a reasonable accommodation, an extension of up to 60 additional days (120 days maximum term) will be considered. The request must be made in writing and received by THDA prior to the expiration date.
3. A family must submit a Request for Tenancy Approval within the term of the voucher for the process to continue. The unit does not have to be inspected prior to the expiration date. However, if a unit is inspected after the expiration of the voucher and does not pass, and the owner will not make the required repairs, the family assistance is denied. The family must re-apply for the program. If a Request for Tenancy Approval is submitted just prior to or on the expiration date, the unit must be inspected and pass an inspection no more than 30 days after the date the Request for Tenancy Approval is received by THDA. If the unit fails the inspection, the family is denied Section 8 assistance, and they must re-apply for the program.
4. The voucher term may be suspended if the household has a verifiable medical emergency or required medical procedure and requests a voucher suspension in writing. The request must be made prior to the voucher expiration date, unless the household can verify that they were incapacitated and unable to contact THDA during the voucher term. The voucher will be suspended for the number of days the household member was hospitalized or otherwise incapacitated.
5. If a family does not find a unit within the sixty (60) day initial term and any extension that is granted, the family must reapply if they are still interested.

## Chapter 7

### **SUBSIDY STANDARDS, ACCEPTABLE HOUSING UNITS & HOUSING QUALITY STANDARDS [24 CFR 982.54 (d) (9)]; [24 CFR 982.401]**

#### **I. SUBSIDY STANDARDS & DETERMINING VOUCHER SIZE [24 CFR 982.402]**

##### **A. Subsidy Standards**

Subsidy Standards determine the unit size (number of bedrooms) for which a family qualifies. The unit size is important because it determines the maximum amount of subsidy that will be paid for the family through the Payment Standard. The goal of determining unit size is to assign an appropriate bedroom size allocation to the family that will require the minimum commitment of housing subsidy. At the same time, THDA wishes to avoid overcrowding, maximize the use of space and comply with HQS requirements.

The unit size is based upon the family composition (the number of persons, their sexes, ages and relationship). The unit size for which the family qualifies is shown on the voucher. The unit size shown on the voucher remains the same regardless of the unit size selected.

Standards used when issuing a voucher are as follows:

| Voucher Size | Minimum #<br>Persons In<br>Household | Maximum #<br>Persons In<br>Household |
|--------------|--------------------------------------|--------------------------------------|
| 0 BR         | 1                                    | 1                                    |
| 1 BR         | 1                                    | 2                                    |
| 2 BR         | 2                                    | 4                                    |
| 3 BR         | 4                                    | 6                                    |
| 4 BR         | 6                                    | 8                                    |
| 5 BR         | 8                                    | 10                                   |
| 6 BR         | 10                                   | 12                                   |

Note: Housing Quality Standards (HQS) allow two persons per living/sleeping room and would permit the following maximum occupancy, assuming a living room is used as a living/sleeping area:

| Voucher Size | Maximum Occupancy |
|--------------|-------------------|
| 0-BR         | 1                 |
| 1-BR         | 4                 |
| 2-BR         | 6                 |
| 3-BR         | 8                 |
| 4-BR         | 10                |
| 5-BR         | 12                |
| 6-BR         | 14                |

## **B. Unit Size Guidelines**

The following are guidelines that will be used in determining the unit size of the voucher to be issued:

1. No more than two persons may share a bedroom or living/sleeping area.
2. The following categories of persons should have separate bedrooms:
  - a. minor children of the opposite sex where one or more child is age eight (8) or older
  - b. minor children of the same sex with an age difference of six years or more (such as a six year old female, and a twelve year old female)
3. Children of the same sex with an age difference of six years or less should share a bedroom.
4. Children of the opposite sex may share a bedroom until one of the children reaches age eight (8).
5. Children are not required to share a bedroom with a parent. However, a parent may choose to share a bedroom with a child.
6. Foster children are included in determining unit size.
7. Unborn children are considered in determining unit size. A single, pregnant head of household will be issued a two-bedroom voucher.
8. Space is not provided for children who live out of the unit more than fifty percent of the time. (For example, the tenant does not have custody of a child, but the child visits on weekends. A bedroom is not allocated.)
9. Adults of the opposite sex that are living together as cohabitants and spouses should share a bedroom or sleeping area. Cohabitation is defined as two persons living together as husband and wife.

10. Live-in attendants are generally provided a separate bedroom.
11. Space will not be provided for a full time student who is away at school but lives with the family during school recesses.
12. Space is not provided for a family member who will be absent most of the time, such as a member who is away in the military. A person confined to a medical facility for less than six (6) months who plans to return to the assisted unit after treatment will be considered in the subsidy standard determination.
13. Families are not required to use rooms other than bedrooms for sleeping purposes in the unit size determination.
14. A family should select a unit that matches the number of bedrooms assigned on the voucher. However, the following also applies:
  - a. Families may select smaller units than listed on the voucher as long as the unit selected has at least one sleeping or living/sleeping room for each two persons in the family. In this case, the payment standard for the smaller size unit is used to determine the Housing Assistance Payment.
  - b. Families may select units larger than the size shown on the voucher. In this case, the Payment Standard used for the Housing Assistance Payment calculation is the same as the size indicated on the voucher.

**\*\*THE UTILITY ALLOWANCE FOR THE UNIT SIZE ACTUALLY SELECTED IS ALWAYS USED TO CALCULATE THE HOUSING ASSISTANCE PAYMENT, REGARDLESS OF THE SIZE AUTHORIZED ON THE VOUCHER.**

15. One bedroom units are assigned to single person households because very few efficiency or 0 bedroom units exist in the rental market. However, if the household selects an efficiency or 0 bedroom unit, the 0 bedroom payment standard is used.

### **C. Requesting a Larger Subsidy**

Persons with verifiable medical needs or other extenuating circumstances, which can be verified by a physician or other professional, may qualify for a larger unit. A written request must be sent to the Director of Rental Assistance, or designee. When determining whether a larger subsidy size request will be approved, THDA must weigh the financial and administrative burden granting the larger bedroom size will have on the overall program and its applicants and participants against the individual household's need for the larger size.

## **II. RESPONSIBILITY FOR LOCATING SUITABLE HOUSING**

The applicant/participant has the primary responsibility for locating a unit. Information on owners who have expressed a desire for subsidized tenants is provided as part of the oral briefing (or upon request). Suggestions on how to find a unit are also given to applicants/participants. Ultimately, the selection of the unit is the applicant or participant's preference as long as the unit meets the eligibility criteria.

## **III. ELIGIBLE HOUSING TYPES [24 CFR 982.353; 982.54 (D) (15)]**

### **A. Types of Housing**

The following types of housing are eligible for leasing under the HCV program as long as they pass Housing Quality Standards and meet occupancy standards:

- Single family homes
- Apartments/Duplexes
- Mobile homes or manufactured homes where the tenant leases the mobile home and the pad from the same owner
- For disabled and elderly households only:
  - Independent group residences
  - Group Homes
  - Assisted Living Facilities

### **B. Criteria for Acceptable Housing**

The unit must pass Housing Quality Standards, meet acceptable subsidy standards and conform to the following criteria:

1. The rent requested by the owner must be reasonable when compared with similar, unassisted units in the same area (See Rent Reasonableness).
2. The owner must be in good standing with THDA and other PHA's. For example, an owner who has illegally evicted subsidized tenants may be prohibited from future participation. Owners may also be barred from participation for actions such as repeated HQS violations, HAP Contract violations, fraud and bribery.
3. The unit may not be owner-occupied (unless the household is participating in the Homeownership Voucher Program).
4. The unit may not be approved if the unit is owned by a parent, stepparent, child, stepchild, grandparent, grandchild, sister or brother of any member of the family, unless approving the unit is necessary as a reasonable accommodation for a family that includes a member with a disability. This rule applies to elderly families unless the family includes a member with a disability.

5. The unit may not have another subsidy as defined under the U.S. Housing Act of 1937, other than assistance under Section 17.
6. The unit may not be a nursing home or other unit where continual medical, mental, or nursing services are provided. In addition, the unit may not provide services of a penal or reformatory institution.
7. If the unit is located in a development (such as project-based Section 8) where some of the units receive another type of federally assisted housing, a determination is made of the number of units that are not receiving another type of federal subsidy. Voucher holders are only permitted to occupy a unit that does not receive another federal subsidy.
8. Elderly, disabled, or displaced families and individuals may use Congregate Housing; and elderly or disabled persons who require a planned program of continual supportive services may use Independent Group Residences, Group Homes or Assisted Living Facilities.
9. Shared housing arrangements, where more than one assisted household shares a bedroom in a facility, are not permitted by THDA at this time.
10. Units that have a THDA mortgage are not eligible for rent by participants in the Section 8 Rental Assistance Program without prior written approval from THDA's Division of Mortgage Administration.

## **IV. HOUSING QUALITY STANDARDS**

### **A. General Information**

The landlord and assisted household must allow the unit to be inspected at reasonable times with reasonable notice. The household is notified of the inspection appointment by mail or phone. If a member of the household cannot be present, they must call to reschedule the appointment or make arrangements for an adult representative or the owner to be present. If the household misses the inspection appointment and does not arrange for some other adult or the owner to be present, they are allowed one additional inspection/reinspection appointment. If the household misses two inspection appointments, THDA considers them to have violated the family obligations in the program, and their assistance will be terminated.

At the initial briefing, the household is given information on what is required for a unit to pass Housing Quality Standards (HQS). They are also informed of their responsibility to assist in maintaining the assisted unit so it always passes HQS, including reporting any needed repairs to the owner, and being accountable for damages that are the tenant's responsibility. HQS violations, other than normal wear and tear that are caused by the tenant, are not the owner's responsibility under the HAP Contract.



Prior to the execution of the Housing Assistance Payments Contract, the owner is advised of his responsibilities to maintain a unit so it always passes Housing Quality Standards. A new owner is given a Landlord Booklet that provides a summary of HQS requirements.

## **B. Types of Inspections and When They are Conducted [24 CFR 982.401 (a); 982.405]**

The following types of inspections are conducted on HCV participating units in the manner outlined below.

1. **Initial:** A unit must be inspected and have a pass rating prior to the execution of a Housing Assistance Payment Contract.
2. **Annual (Re-inspection):** After a unit is accepted into the program, it is inspected annually as long as it remains on the Program. The unit must be inspected before or during the same month each year. For example, if the unit was inspected in May at the first annual recertification, the unit must be inspected in May or earlier the next year.
3. **Special (Complaint):** A unit is inspected at other times at the request of the owner or the family. These are generally “complaint inspections.”
4. **Quality Control Audit:** A supervisory quality control inspection is conducted on five percent of all units under lease annually by the Section 8 State Coordinator. The units to be included in the Quality Control Audit Inspection are selected at random.

## **C. Minimum Acceptability Standards**

The purpose of Housing Choice Voucher program is to provide decent, safe, and sanitary housing to those in need. HUD’s Housing Quality Standards provide the criteria for determining the minimum standards for a unit to be eligible for assistance under this program. These criteria are defined in Chapter 5 of HUD’s Public Housing Agency Administrative Practices Handbook of the Section 8 Existing Housing Program (7420.7, Change 3, June 1983), 24 CFR Section 982.4, and HUD’s Housing Inspection Manual.

THDA complies with the criteria as defined in the above named documents with the following additions and clarifications. All HQS requirements are not restated in this plan.

1. **Smoke Detectors:** An operable smoke detector is required in each unit. There must be a smoke detector on each level of the unit. Where possible, the smoke detector must be installed in the hallway outside bedrooms. Depending upon the size of the unit, and the location of the bedrooms, more than one smoke detector may be required. If the tenant has a hearing impairment, there must also be a smoke detector with a visual alarm.

THDA provides batteries for all inoperable smoke detectors identified at the time of the inspection. However, if a smoke detector is inoperable due to a problem within the smoke detector, the smoke detector will be considered an “Emergency Repair Item” unless there is another smoke detector on the same level of the unit.

2. **Window Screens:** A screen is required on at least one window in each room used for living or sleeping (including the bathroom) if there is a window present, and it is made to be opened, unless there is central air conditioning.
3. **Window and Door Locks:** All doors accessible from the outside must have permanent locks. At least one exterior door must have a key lock which can be opened by the tenant from the outside. Padlocks are not acceptable locks. A storm door alone does not suffice as an exterior door. Double keyed locks are acceptable on glass doors and solid core doors if there is an alternative means of egress from the room (such as a window that opens or another exterior door). Locks are not required on bedroom or bathroom doors. This is left to tenant preference.

All windows accessible from the outside and made to be opened must have a permanent locking device. Props may not be used in any window. A storm window with an adequate locking device suffices for the security criteria if the storm window cannot be removed from the outside and provides security throughout the year. If windows are opened by cranks, the cranks must be present and operable.

4. **Windows:** Skylights and doors with glass may suffice for window requirements when air quality, ventilation, and egress criteria are otherwise met. A storm window may be used as the window unit only after thorough examination to determine that the security and ventilation requirements are met, and that there is adequate protection from weather elements. If windows are designed to be opened, at least one in each room used for living and sleeping must open and remain up when opened (without a prop).

Windows which are nailed shut are acceptable only if these windows are not needed for ventilation or as an alternate exit in case of fire.

5. **Water Heaters:** Temperature-pressure relief valves and drain lines are required on all water heaters. If a water heater is not accessible to be inspected (enclosed in a wall or cabinet, etc.), the owner may submit a statement certifying that the heater has a temperature-pressure relief valve and a drain line. The drain line must be the proper size for the water heater (it cannot be downsized) and must extend to within 6” of the floor or drain to the exterior of the unit.

If the water heater is electric, the romex wiring to the water heater must be enclosed in rigid protective conduit, if the water heater is accessible to the tenant (e.g. located in a living, sleeping, bath, or utility room). The protective conduit is

not required if the water heater is located in a closet, attic, crawl space, behind a wall, or other area inaccessible to the tenant.

6. **Egress:** Any unit located three stories or higher must have a fire escape in the unit. A rope ladder is acceptable. Field staff may also require a fire escape for a second story unit if the location of the unit or the physical condition of the tenant might present a problem if there was a fire. Each unit must have two or more exits for use in case of fire. An exit may be a window or a door. If a unit has security bars on the windows, each room with the bars must have an exterior door, or at least one window in each room must have bars which open from the inside.

THDA requires all adult household members to sign a “Participant Certification Regarding Security Bars” form when there are security bars present on all windows of a unit. The form must be signed at every Initial and Annual Recertification. This Certification does not relieve the unit from the HQS requirement, but serves to educate the residents of the unit about possible consequences that could occur if the security bars do not meet HQS requirements. The certification also protects THDA should the security bars prevent the residents from exiting the unit in the event of a fire.

7. **Thermal Environment:** Each unit must have a permanent heat source that provides adequate heat to each room used for living or sleeping. Portable electric heaters may be used as a primary heat source only with a waiver from HUD. Portable gas, kerosene heaters, and unvented gas heaters are never acceptable as a heat source. Wood stoves and/or fireplaces may be used as a primary heat source if properly installed (except in mobile homes). A wood stove and/or fireplace may never be approved as a primary heat source for use in mobile homes. If a ventless gas heater is used, a carbon monoxide detector must be properly installed and in good working order. During cold weather, the heat source must be capable of maintaining a minimum temperature of 68° within three feet of the floor in all living/sleeping rooms.
8. **Ventless Gas Heaters:** HUD has now granted permission to THDA to allow the installation of ventless gas heaters in bedrooms, bathroom, and mobile homes – but with strict requirements. A “Ventless Gas Heater” certification can be found on page 20 of the Inspection Booklet, and states the documentation that is required if a ventless gas heater is installed in a bedroom, bathroom or mobile home.

The owner must provide documentation that the ventless gas heater meets all requirements as specified by local building codes. Documentation must be provided proving that the ventless gas heater was installed by a person or company qualified to install such heaters. If the heater was not installed by a person or company qualified to install such heaters, the documentation must be obtained from a source (such as a local gas company) stating that the heater was properly installed.

Documentation must be provided proving that the heater was designed for the purpose for which it was installed. In other words, if a ventless gas heater has been installed in a bedroom, documentation is required proving that the heater was designed for use in a bedroom. A copy of the paperwork which accompanied the heater can be used, provided that it states the requirement.

The owner must certify that the heater has been permanently installed in the wall or floor. He must also certify that an operable carbon monoxide detector has been installed in the unit. In addition, if a ventless gas heater has been installed in a bedroom, a carbon monoxide detector must be installed inside the bedroom. This is to protect the occupant(s) of the bedroom in case the ventless gas heater malfunctions, and the bedroom door is closed.

9. **Handrails:** Handrails are required on interior and exterior stairs, porches, and balconies if there are four or more steps, or the height is 30" or higher. Depending upon the location and height of the stairs, a rail may be required on both sides of the steps. Depending upon the ages and physical condition of the tenant family and the height of the stairs, balcony, or porch, lattice or protective slats may be required.
10. **Mobile Homes:** All mobile homes must have tie downs and be underpinned or installed on a permanent foundation. If the tie downs are not visible, a certification from the owner is acceptable.
11. **Food Preparation:** If the oven and stove are tenant-supplied, a microwave oven may be substituted for an oven and/or stove with top burners. If the oven and stove are owner-supplied, a microwave may be substituted for an oven and/or stove with top burners if the tenant agrees, and the owner treats all tenants alike (e.g., microwaves are provided for both subsidized and non-subsidized tenants). In cases where the microwave oven is the primary food preparation appliance but there is a conventional stove present that does not work, the stove does not have to be removed from the unit unless it poses a safety hazard.
12. **Private Water Supply Systems:** Private water supply systems (wells) must be tested at initial leasing and every two years subsequently. The water may be tested by a local or state health department or an independent laboratory which is qualified to conduct such tests and willing to certify the results of the tests.
13. **Weather-stripping:** Adequate weather-stripping is required on exterior doors.
14. **Interior Doors:** Doors are required for privacy on bedrooms and bathrooms. They must be properly installed and remain shut when closed. The type of door is tenant preference. If the bedroom is structurally designed so it is not possible to have a door (for example, a loft bedroom), the acceptability would be the tenant's preference.

Tenants may choose to not have any interior doors if that is the tenant's preference and there are no children in the household. Certification of this preference must be obtained from the tenant. This certification of such preference should be placed in the tenant's file if there are to be no interior doors. If children are present in the unit, interior doors must be present unless a waiver is obtained from the Director of Housing Management.

15. **Romex Wiring:** Surface-mounted romex wiring is acceptable under the following conditions: In interior rooms used for living and sleeping, romex wiring must be enclosed behind a wall or enclosed in protective conduit. Both metal and rigid rubber type of conduit are perfectly acceptable. If the romex wiring is connected to appliances, such as water heaters, protective conduit is required if the appliance is accessible to the family. Surface mounted romex wiring found on the exterior of the unit, or in rooms not used for living or sleeping, such as an unfinished utility room or basement, must be enclosed in protective conduit if it is within four feet of the floor or ground. Romex in these locations installed higher than four feet must be secured to walls, rafters, studs, etc.

16. **Lead-Based Paint:** The requirements for lead-based paint are below.

#### General Guidelines

Lead poisoning can cause permanent damage to the brain and many other organs, and can result in reduced intelligence and behavioral problems. The most common sources of lead hazards are deteriorated lead-based paint and the contaminated dust and soil it generates in the residential environment.

Lead-based paint is an HQS issue only if the unit was built before 1978, and there is a child under age 6 (72 months or younger) who resides, or is expected to reside, in the unit.

Owners are not required to have their units tested for the presence of lead-based paint. However, if the Owner chooses to have the unit tested, a person or company certified by the State of Tennessee to conduct lead testing must be employed. If the unit is found to be lead-free, a copy of the certification must be given to the family, and a copy must be maintained in the tenant's file.

This rule is not applicable to 0-bedroom units, units specifically designated or reserved for households of elderly or disabled persons, units that have been tested and have been certified to be free of lead-based paint, or units in which all lead-based paint was identified, was removed, and passed a clearance examination.

#### Inspection Requirements and General Actions

The following procedures will be followed when inspecting a unit built before 1978:

Units constructed prior to 1978 with a child under 72 months old must be visually assessed (inspected) for deteriorated paint surfaces on the interior and exterior of the unit. The units are inspected prior to the effective date of the HAP Contract (move-in), and at each annual recertification.

- All painted interior surfaces within the unit should be inspected for deteriorated paint. This includes ceilings, walls, floors, doors, windows, baseboard, trim, etc. Furniture is excluded from the inspection.
- The entrance and hallway providing ingress and egress to a unit in a multi-unit building should be inspected for deteriorated paint.
- Exterior surfaces including walls, stairs, decks, porches, railings, windows, and doors should be inspected for deteriorated paint. This includes outbuildings such as garages and sheds. In multi-unit complexes, laundry rooms and playgrounds should be inspected for deteriorated paint.

All deteriorated paint that is identified during the inspection must be stabilized, except units that have been tested and found to be lead-free, or when the deterioration is limited to hairline cracks or small nicks, scratches, or nail holes. However, the area of deteriorated paint must be determined to permit the staff member to know how to proceed.

The de minimis levels have changed to the following:

- 20 square feet on exterior surfaces
- 2 square feet in any one interior room or space
- 10% of a type of building component with a small surface area (such as painted windowsills) on interior and exterior surfaces

If the area of deteriorated paint is more than the above measurements, the paint must be stabilized by a person who has received training in lead-safe work practices through a HUD-approved training course (proof of training is required) or the owner must employ a person or company certified by the State of Tennessee to conduct the lead hazard control activities.

#### Cost of Stabilizing Deteriorated Paint

THDA may not provide assistance under the Section 8 program for occupancy of a unit unless the deteriorated paint surfaces have been stabilized. However, THDA is not responsible for paying the costs incurred when stabilizing deteriorated paint.

### Clearance Examinations

Once the deteriorated paint has been stabilized, the unit must be visually assessed (inspected) by THDA to ensure that the area of deteriorated paint has been repaired and all visible dust, debris or residue has been eliminated.

Once the unit has passed the visual assessment by THDA, the owner must employ a person/ company certified by the State of Tennessee to conduct a Clearance Examination. The person/company cannot be the same person/company who performed the lead hazard control activities.

Once the unit passes the clearance examination, the company should provide certification to the owner that the unit is lead safe. Within 15 days of receipt of the results of the clearance examination, the owner is required to notify the occupants and THDA of the results of the clearance examination.

The owner must maintain the unit to ensure the paint remains intact. The owner must certify that the deteriorated paint was stabilized in accordance with HUD regulations (certifications can be found in Inspection Booklet). A copy of the certifications from the company(ies) that conducted the lead hazard control work and the clearance examination must be attached to the Owner's certification.

**The unit does not pass HQS until the unit passes the clearance examination.**

### Child with an Environmental Intervention Blood Lead Level

If a child under the age of six (6) is identified by a public health department or other medical health care provider as having an Environmental Intervention Blood Lead Level (EIBLL), a risk assessment of the dwelling unit must be conducted (24 CFR 35.1225). The State Coordinator, Director or Assistant Director of the Rental Assistance Division of THDA must contact the Child Health Director of the Tennessee Dept. of Health. The Tennessee Dept. of Health will then contact the Tennessee Dept. of Environment and Conservation, which will be responsible for conducting the Risk Assessment with fifteen (15) days of notification.

The assessor will issue a report to THDA explaining the results of the investigation, as well as options and requirements for reducing lead-based paint hazards. THDA must provide the report to the owner, who must notify the tenant of the results of the Risk Assessment within fifteen (15) days of receipt of the report from THDA.

The owner must complete the lead-hazard control work identified in the Risk Assessment within thirty (30) days (or date specified by THDA if an extension is granted for exterior surfaces). If the Risk Assessment states that any activity other than paint stabilization is required, the owner must hire a person certified by the State of Tennessee to perform the work. The owner may perform paint

stabilization provided he, or someone he employees, has completed a HUD-approved training course. For all other activities, such as abatement, interim controls, and dust and soil contamination controls, a certified person or company must perform the lead-hazard reduction work. The appropriate method of correction should be identified in the Risk Assessment. NOTE: The person or company who performed the risk assessment cannot be the same person or company who performs the lead-hazard reduction work.

Once the lead-hazard reduction work is completed, a clearance examination is required (see Clearance Examinations). Once clearance is achieved, the owner must notify the tenant and THDA of the results of the clearance examination within fifteen (15) days.

**The unit does not pass HQS until the unit passes the clearance examination.**

Once a lead-poisoned child has been identified in a unit, any lead hazards identified in the risk assessment must be corrected, and clearance must be achieved within thirty (30) days. This is required before the unit can continue to receive rental assistance – even if the lead-poisoned child is no longer present in the unit. If the family chooses to relocate to another unit, the unit must pass a clearance examination before any other tenant (including a family without a child(ren) under the age of six) can move into the unit receiving federal assistance.

#### Companies Certified by the State of Tennessee

Once the determination has been made that the owner is required to hire a person or company to conduct lead hazard control work, clearance examinations, or risk assessments, the owner should contact the Tennessee Department of Environment and Conservation to obtain a list of companies certified by the State of Tennessee to perform the work. The list is continually updated as people or companies become certified.

For a current list of people or companies certified by the State of Tennessee, the owner can call 1-(888)-771-5323, or Mr. Kenneth Bakari at 1-(615)-532-8011.

17. **Carbon Monoxide:** THDA HQS Standards do not require carbon monoxide detectors at this time, unless a ventless gas heater is present in the unit. The landlord and applicant booklets include pertinent health and safety information relative to the dangers of carbon monoxide poisoning.
18. **Gas:** Owners of units where gas is used (either natural or propane) are required to certify annually that all owner-supplied appliances using gas (heat sources, stoves, water heaters, etc.) are in proper working condition. THDA encourages owners to obtain certification from the local gas company, and provide staff members with a copy of the certification to be maintained in the tenant's file.



**19. Group Facility Special Provisions:** Special provisions for sanitary and food preparation and service facilities are required in group home and Independent Group Residence (IGR) units as follows:

- **Sanitary:** Group homes must have at least one bathroom in the unit, with a flush toilet that may be used in privacy; a fixed basin with hot and cold running water; and a shower or bathtub with hot and cold running water. The facility may contain private or common bathrooms, but no more than four residents may be required to share a bathroom.
- **Food Prep & Service:** Group homes must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or shared by other residents. The kitchen must contain a range, an oven, a refrigerator and a sink with hot and cold running water. The sink must drain into an approved public or private disposal system.

The housing quality standards for lead based paint do not apply to group homes or IGRs.

**20. Single Residence Occupancy (SRO) Special Provisions:** Special provisions for access, fire safety, sanitary facilities, space and security are required in SRO units as follows:

- **Access:** Access doors to individual SRO bedrooms must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level.
- **Fire Safety:** The facility must have a sprinkler system that protects the major spaces. "Major space" includes hallways, common areas, and any other areas specified in local codes. SROs must also have hard-wired smoke detectors.
- **Sanitary:** At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to men, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway, and may not be located more than one floor above or below the SRO unit.
- **Space/Security:** An SRO bedroom must contain at least 110 square feet of floor space, and at least four feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is

less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible outside the SRO bedroom must be lockable.

The housing quality standards for lead based paint do not apply to SROs.

If THDA determines that a requirement in the Inspection Booklet may not be met because the design of the item does not meet the requirement or because the requirement contradicts local codes, THDA will obtain documentation from the appropriate person or source explaining why the requirement can not or should not be enforced. This documentation will be maintained in the tenant file.

#### **D. Inspection Booklets**

An inspection report is completed at every initial, annual, special, and move-out inspection. The Inspection Booklet and all correspondence related to Housing Quality Standards are retained in the tenant file.

#### **E. Routine Time Guidelines for Inspections and Repairs**

The following routine procedures will be followed when conducting inspections:

1. Inspections for new move-ins and move-outs are conducted within ten (10) working days following the request, pending the schedule of the inspector. Annual inspections are conducted 90-120 days prior to the contract anniversary date. Complaint inspections are conducted within five (5) working days or less depending upon the seriousness of the complaint.
2. The tenant and owner are notified in writing of the results of all inspections (*Notice of Inspection* form). If the unit fails the inspection, the owner and tenant are informed of the failed items and the amount of time allowed to make the repairs. Thirty (30) days *from the date of the inspection* is given to complete all repairs unless the repairs are minor in which case less than 30-days may be given. If the item endangers the family's health and safety (an emergency repair item), the problem must be corrected in 24 hours unless a short extension (not more than 48 hours) has been approved (see *Emergency Repair Items* below).
3. At the end of the 30-day repair period, the unit is reinspected. Only failed items must be reinspected. However, if other fail items are noticed during the reinspection, these items must be corrected within a reasonable time period. If repairs are not completed by the reinspection (or within 30-days) and the repairs are the owner's responsibility, the HAP must be abated until all items which cause the unit to fail have been corrected, or 30-days. If repairs are not completed by the reinspection (or within 30-days) that are the tenant's responsibility (and the tenant has not properly requested an extension), the tenant's rental assistance is

terminated. The tenant does not have the right to appeal a termination decision that results from failure to make Housing Quality Standards repairs.

4. If the repairs are not completed by the reinspection date due to a documented extenuating circumstance (owner or tenant), such as inclement weather, inability to obtain parts, or extensive work needed, an extension beyond the initial 30-days may be granted. An extension may be granted at the discretion of the inspector or Housing Assistance Manager, based on documentation provided by the owner or tenant. The HAP will not be abated during the extension. The extension will be for a defined period of time (granted in 30 day increments). The extension may not extend past the annual date except in cases where the circumstances are clearly out of the control of the owner or tenant. For example, a window lock for an older home must be ordered, and the part is on back order at the hardware store.
5. If repairs are not completed within the 30-day extension period that are the owner's responsibility and a documented extension has not been requested and/or was not approved, the HAP is terminated and the tenant is issued a voucher for relocation. If repairs are not completed within the 30-day extension period that are the tenant's responsibility and a documented extension has not been requested and/or approved, the tenant's rental assistance and the HAP are terminated.
6. Extensions for repairs (owner or tenant) beyond the annual date will be granted only when a documented extenuating circumstance (e.g. hospitalization, inclement weather) has occurred that can not be remedied by the annual date. The Director of Rental Assistance must approve all extensions beyond the annual date. The Director will also decide whether to continue or to abate the HAP payment during the extension period. In the case of an approved extension, the annual should be processed without an HQS pass date. An interim must be processed when the unit passes with the HQS pass date.

## **F. Delays in Completing HQS Inspection**

Possible delays in completing HQS inspection are outlined below.

### **1. THDA Administrative Delay**

If an administrative delay occurs that causes an inspection (or reinspection) to be delayed, no action may be taken that negatively impacts the tenant or landlord. An administrative delay is an action or inaction by THDA personnel that causes the inspection process to be delayed (e.g. sick day for Field Representative). Field Representatives must notify their Housing Assistance Manager on the day the delay occurs. Housing Assistance Managers must initial and date the front of the Inspection Booklet to approve the administrative delay.

### **2. Tenant Caused Delay**

If the tenant causes a delay in the inspection process by failing to be present for an inspection, or failing to have a responsible adult present to allow the unit to be

inspected, the Field Representative can not be held responsible for his inability to conduct the inspection (e.g. the situation is not an administrative delay). This situation is viewed as a “missed appointment” for the tenant. When the tenant misses the first appointment, a second appointment is rescheduled within seven (7) working days. If the tenant misses two appointment/inspections at any time during the recertification process, his assistance will be terminated.

## **G. Failure to Complete Repairs**

If repairs are not completed, the procedures below will be followed.

### **1. New Unit**

If the time allowed for the completion of repairs has passed, and the unit still does not pass HQS, the family may shop for another unit if their voucher has not expired.

If the unit has failed two follow-up inspections, the family may look for another unit if their voucher has not expired.

If their voucher has expired and the unit still does not have a pass rating, the family must reapply.

### **2. Existing Unit on Program**

If the repairs are not completed with the time frame given (annual and special inspections) and there was no documented extenuating circumstance to prevent the repairs from being made, the following will be observed:

- **Owner’s Responsibility:**  
Inform the owner that the Housing Assistance Payments must be abated for a maximum of thirty (30) days. If repairs are not completed with thirty (30) days, the HAP contract must be terminated. An abatement may not exceed 30 days.
- **Tenant’s Responsibility**  
Inform the tenant that his/her assistance will be terminated, and begin the termination process. The tenant does not have the right to appeal a termination decision that results from failure to make Housing Quality Standards repairs.

## **H. Emergency Repair Items**

The following items may be considered an emergency and are to be corrected within 24 hours of notice by the Inspector. The list includes (but is not limited to) the following:

- Escaping gas from stove
- Major plumbing leaks or flooding

- Natural gas leak or fumes
- Electrical situation which could result in shock or fire
- No heat when outside temperature is below 50 degrees
- No running water
- Utilities turned off
- Broken glass where someone could get cut
- Obstacle which prevents tenant's access to unit
- Blocked and overflowing toilet
- Unit cannot be adequately secured
- Inoperable Smoke Detector (when tested, if smoke detector fails test)

A short extension (not more than 48 hours) may be given where the owner cannot be notified, or if it is impossible to repair within the twenty-four (24) hour period.

If the emergency items are not corrected within seventy-two (72) hours, the following procedures are to be observed.

- If the owner is responsible for the repair, the HAP Contract is terminated immediately, and the rent is abated during the HAP Contract termination period.
- If the tenant is responsible for the repair, the family's assistance is terminated. In this case, the HAP Contract will be terminated at the end of the month (similar to a move without notice) since the owner did not contribute to the emergency repair, unless the repair involves utility disconnection. If utilities have been disconnected, and the utilities are the responsibility of the tenant, the procedures listed below will be followed.
  - The tenant should be notified within 24 hours of THDA's becoming aware that the utilities are disconnected. The tenant is given 48 hours to have the utilities reconnected (for a total of 72 hours).
  - If the tenant fails to have the utilities reconnected, the family's assistance is terminated using the following procedures:

If THDA is informed of the disconnected utilities during the same month that the utility was disconnected, the HAP will be paid to the owner through the end of the month in which the utility was disconnected.

If THDA is informed of the disconnected utilities after the month the utilities are disconnected, and THDA has no reason to believe that the owner had knowledge of the disconnected utilities, the owner may keep the HAP through the month in which THDA became aware of the disconnected utilities.

If THDA is informed of the disconnected utilities, and the owner was aware that the utilities were disconnected, or that the tenant vacated the

unit, but failed to notify THDA in a timely manner, the HAP will be terminated at the end of the month in which the utility was disconnected.

For verification purposes, THDA will contact the utility company and determine the exact date the utility was disconnected.

If any of the above emergency repair items can be remedied in such a manner that the health and safety of the occupant(s) is not compromised, the Inspection Booklet must be documented with an explanation of the manner taken to temporarily remedy the situation. If the item in question can be repaired in a safe, but temporary manner, the emergency repair guidelines will not be required but will require repair within 30 days.

### **I. Abatement (Suppression) of Payment [24 CFR 982.404]**

When it has been determined that a unit on the program fails to meet Housing Quality Standards for reasons that are the owner's responsibility, and the owner has been given an opportunity to correct the problem(s) and the specified corrections were not done within the time-frame allowed (30 days), the rent for the unit is abated.

At a maximum, the abatement continues until all items which cause the unit to fail have been corrected, or thirty (30) days. If the necessary repairs have not been completed within the 30-day time period, and an extension has not been granted, the HAP Contract is terminated. Abated units are reinspected within three to five (3-5) days of the owner's reporting of the completed work. Once the reinspection has been conducted, and all repairs completed, HAP payments may resume on the day the owner notifies the field office that the repairs are complete (the abatement ends the day before the owner notifies the field office the repairs are complete).

After the Termination of HAP Contract has been given, during the abatement period, only one more Housing Quality Standards inspection will be conducted.

### **J. Termination for HQS Breach**

Termination for HQS breach occurs in the following manner.

#### **1. Termination of HAP Contract**

If the owner fails to correct all the items cited, for which he is responsible, within thirty (30) days of the beginning of the abatement period, the Contract is terminated. When the HAP Contract terminates, the lease also terminates.

During the abatement period, only one more Housing Quality Standards inspection will be conducted before the Housing Assistance Payments Contract is terminated. Once the HAP Contract is terminated, it may not be reinstated. The tenant may be given a new voucher to move if he remains eligible for assistance.

## **2. Termination of Assistance**

If the tenant is responsible for the HQS violations and corrections are not completed on time, the tenant's assistance will be terminated. Proper termination procedures will be followed in this case. The landlord is not liable for such violations, and thus, the HAP Contract will not be terminated until the end of the month in which the violation occurs (similar to a move without notice), except in the case of utilities being turned off (*see Section VIII, Emergency Repairs*).

## Chapter 8

### **REQUEST FOR TENANCY APPROVAL, LEASE, RENT DETERMINATION AND RENT REASONABLENESS, HAP CONTRACT EXECUTION [24 CFR 982.304 (b); 982.305 (c); 982.308, 982.501, 982.503]**

#### **I. REQUEST FOR TENANCY APPROVAL [24 CFR 982.305 (b)]**

The Request for Tenancy Approval (HUD 52517) gives relevant information such as the names of the parties on the lease, the address of the unit, the effective date of the lease, who pays which utilities, the amount of rent most recently paid and the proposed rent.

- **RTA at the Time a Unit is Selected**

A Request for Tenancy Approval (RTA) is submitted when the family finds a suitable unit owned by a person willing to participate in the program. The RTA must be signed by both parties (tenant and landlord) and submitted during the term of the voucher (and any extensions).

A copy of the proposed owner lease (unless the THDA model lease is used) must be submitted with the RTA for THDA review. A Lead-Based Paint Disclosure form also must be submitted with the Request for Tenancy Approval.

Only one Request for Tenancy Approval may be submitted during a particular time period. The RTA allows a 30-day time period for the unit to pass inspection. For example, if an RTA is submitted on December 15, and the applicant or participant's voucher expires on December 30, the RTA allows an extra 15 days beyond the voucher expiration for the unit to be inspected. At a maximum, the RTA may extend the expiration date of the voucher 30 days for a particular unit.

- **RTA at the Time of a New Lease**

A Request for Tenancy Approval also must be submitted any time an owner presents a new lease (unless the lease is THDA's model lease) to a current occupant. When an owner proposes a new lease, it must be submitted (unsigned) to THDA at least sixty (60) days prior to execution. Each time a new lease is executed between the owner and the tenant, a new HAP contract also must be executed between THDA and the owner.

The owner may contact a THDA staff member by phone and request that the RTA be completed by the field staff to simplify the process. However, a copy of the owner lease (unless the owner uses the THDA model lease) and Lead Based Paint Disclosure form must be furnished before the RTA may be processed. In this case, the RTA is signed by both the tenant and owner prior to the execution of a contract or lease.



**Upon receipt of the Request for Tenancy Approval and lease, THDA will follow the procedures below:**

1. Review the Request for Tenancy Approval, particularly noting the reasonability of the contract rent;
2. Discuss any inconsistencies or omissions with the family and the owner;
3. Check that there are no conflicts of interest;
4. Negotiate the rent amount, if applicable;
5. Schedule an HQS inspection of the unit; and
6. Review the proposed lease.

**The lease will be approved and a Housing Assistance Payments Contract executed if the following conditions are met:**

1. The unit meets Housing Quality Standards or any additional standard identified in this Administrative Plan;
2. The rent is reasonable;
3. The proposed lease complies with HUD and THDA requirements;
4. The owner, unit and family continue to be eligible;
5. The owner has completed a Substitute W-9 form and proof of ownership or Management Agent Agreement form; and
6. The owner is not related (parent, stepparent, child, stepchild, grandparent, sister or brother) to the Section 8 participant, unless approving the unit is necessary as a reasonable accommodation for families that include a member with disabilities (*reasonable accommodation applies only to disabled, not necessarily elderly families*).

If the unit is not approved for any reason, the owner and family are notified and the reason(s) is/are provided. The owner is given fifteen (15) calendar days to correct the problem and resubmit the RTA and lease.

If the unit is approved, final computations of Total Tenant Payment, Tenant Rent, Utility Reimbursement Payment and Housing Assistance Payments are completed. The Housing Assistance Payment Contract is prepared for execution.

## **II. LEASES [24 CFR 982.308]**

Under the Housing Choice Voucher Program, the tenant signs a lease with the owner, which defines the terms and conditions of their relationship. The tenant must have the legal capacity to enter into a lease under State and local law. THDA is not a party to the lease and does not sign it. Copies of the lease and other documents will be furnished to the parties who signed them.

### **A. THDA Model Lease**

THDA has a model lease form available for owners who do not have a standard form lease that is used with unassisted tenants in the locality. The Tenancy Addendum has been incorporated, in its entirety, into the THDA model lease. If the THDA model lease is used, a lease is not required to be submitted with the RTA.

### **1. Initial Term of the Model Lease**

The term of the lease shall begin on the date stated on the lease and continue until termination. The initial lease term will be for a period of 12 months (365 days). The term of the lease and HAP Contract *must* be the same. Neither the lease nor HAP Contract may extend beyond the remaining term of the Annual Contributions Contract.

### **2. Lease Renewal**

The THDA Model Lease has a month-to-month revolving term at the end of the initial, twelve-month term. A new lease or HAP Contract is not required to be executed at the time of annual recertification for HAP payments to continue.

### **3. Lease Revision**

If a change in the leasing situation occurs, which does not require the execution of a new lease, but instead requires a minor change (or addendum) to the existing lease, the appropriate sections of the lease should be stricken through and corrected. Both parties must initial and date the changes to the lease.

*A new lease and HAP contract are **not** required for the following changes:*

- a. Changes in family composition
- b. Changes in amount of rent to owner (A Notice of Change is mailed that should be attached to the lease and HAP contract)

*A new lease and HAP contract **must** be executed when the following changes occur:*

- a. Change in tenant or owner-supplied utilities or appliances
- b. If the family moves to a new unit (including a unit in the same building or complex)
- c. Change in term of lease (Note: if the owner attaches a lease addendum to the lease that changes the term, a new HAP Contract must be executed)

## **B. Owner Lease**

If the owner has a standard form lease that is used with unassisted tenants in the locality, the same standard form lease must be used with assisted tenants. The HAP Contract contains an owner certification that the lease is in a standard form used in the locality by the owner, and that the terms and conditions of the lease are consistent with State and local law. THDA must approve the lease as part of the Request for Tenancy Approval process.

### **1. Content of Lease & THDA Review**

The lease must contain and THDA reviews the owner-supplied lease for the following:

- The name of the owner and tenant
- The address of the unit leased
- The contract rent of the unit
- The term of the lease (initial and any provisions for renewal)
- Notice required to terminate lease after the initial term
- Specifications about which utilities and appliances are to be supplied by the owner and which are to be supplied by the family

THDA staff also may review the lease to determine that it complies with State and local law and may decline to approve the lease if it does not comply.

## 2. Initial Term

The term of the lease shall begin on the date stated on the lease and continue until termination. The initial lease term must be for a period of 12 months (365 days), unless approving a lease for a shorter or longer term is determined to be prevailing market practice or will improve housing opportunities in the area.

The term of the lease and HAP Contract *must* be the same. Neither the lease nor HAP Contract may extend beyond the remaining term of the Annual Contributions Contract.

## 3. Lease Renewal (Execution of New Lease)

The owner may offer the tenant a new lease for a term beginning any time after the initial term (typically 12 months). **THDA must approve any new lease or revision prior to its execution (or signing).** *The owner must give the tenant and THDA 60 days notice of the offer of a new lease.* When a new lease is signed, a new HAP Contract must also be executed. Failure of the tenant to accept a new lease is grounds for termination of tenancy by the owner. If the tenant fails to accept the new lease, he is allowed to be relocated if he is determined eligible.

## 4. Lease Revision

If a change in the leasing situation occurs which does not require the execution of a new lease but instead requires a minor change (or addendum) to the existing lease, the appropriate sections of the lease should be stricken through and corrected. Both parties must initial and date the changes to the lease.

*A new lease and HAP contract are not required for the following changes:*

- Changes in family composition
- Changes in amount of rent to owner (A Notice of Change is mailed that should be attached to the lease and HAP contract)

*A new lease and HAP contract must be executed when the following changes occur:*

- Change in tenant or owner-supplied utilities or appliances

- b. If the family moves to a new unit (including a unit in the same building or complex)
- c. Change in term of lease (Note: If the owner attaches a lease addendum to the lease that changes the term, a new HAP Contract must be executed)

### **III. TENANCY OR LEASE ADDENDUMS**

All addenda, agreements and house rules are signed by owner and tenant and attached to the lease. A copy of the lease and all attachments are given to the tenant and owner. A copy is retained in the tenant file.

#### **A. HUD Tenancy Addendum**

A HUD Tenancy Addendum (HUD-52641A) must be signed by the tenant and landlord and attached to all owner leases. The tenant has the right to enforce the Tenancy Addendum against the owner, and the terms of the Tenancy Addendum shall prevail over any other provision of the lease.

#### **B. Owner Lease Addendum**

If an owner chooses to use THDA's model lease, he may add an addendum, agreement or house rules to the model lease to include subjects not covered by the model lease such as late charges, trash pick-up, use of common grounds, etc. Owners and tenants may execute agreements for services, appliances (other than for range and refrigerator) and other items outside those that are provided under the model lease.

- Any appliance, service, or other item that is routinely provided to non-subsidized tenants as part of the lease (such as air conditioning, dishwasher, or garage) or is permanently installed in the unit cannot be placed under a separate agreement but must be included in the lease. If an appliance, service or other item is placed under a separate agreement, the tenant must have the option of not utilizing the services, appliances, or other item. THDA is not liable for unpaid charges for items covered by separate agreements.
- The tenant and owner agree on the amount of charges covered under special agreements. The charges should be reasonable and should not be intended to substitute for a higher rent. Costs for seasonal items can be spread over twelve (12) months.
- If the owner elects to offer the tenant an addendum to the current lease, THDA must receive a copy of the addendum at least sixty (60) days prior to the effective date of the addendum. In particular, if an owner offers a lease addendum each year, which renews or extends the lease term, the family and THDA must be given a copy of the addendum at least sixty (60) days prior to the effective date of the addendum.

#### **IV. LEASE/PURCHASE AGREEMENTS**

HUD does not specifically prohibit lease-purchase agreements, but approval of a unit, the lease and the terms of the lease must meet normal program requirements, including Housing Quality Standards and rent reasonableness standards. The full rental payment must be specified in the lease. The tenant must not make any extra payments above his rent payment as calculated by THDA.

Unless the family is a participant in the Section 8 to Homeownership program, the Section 8 assistance terminates when the family takes title to the unit.

#### **V. PROOF OF OWNERSHIP AND SUBSTITUTE W-9 FORM**

Participating owners must submit a State of Tennessee Substitute W-9 form with Social Security or tax identification number and a current residential or business address for mailing purposes. Owners of single family dwellings, duplexes, triplexes and mobile homes must also submit proof of ownership of the property or complete a Management Agent Agreement form when the property is managed by a management agent. Both the Substitute W-9 form and proof of ownership (or Management Agent Agreement form) must be submitted before a HAP Contract may be executed.

#### **VI. HAP CONTRACT EXECUTION [24 CFR 982.305 (c)]**

A Housing Assistance Payment (HAP) Contract is a contract between the owner and THDA, which defines the terms and conditions of the owner's participation in the program and authorizes the payment of subsidy to the owner on behalf of the tenant. THDA may not make a housing assistance payment to the owner until the HAP contract has been executed. The term of the Housing Assistance Payment Contract is the same as the term of the lease (except in Rural Development complexes).

Prior to the HAP Contract execution, the family's composition and critical information about income and allowances are reconfirmed. If income verifications are more than 60 days old, the information must be re-verified. Verifications must be no older than 60 days for an initial move-in.

##### **A. Lease Approval & HAP Contract**

When the lease approval process is complete, the owner and family are notified of the lease approval or disapproval. If the lease is approved, the HAP Contract is prepared. The HAP Contract must be executed no more than 60 calendar days from the beginning of the lease term. THDA may not enter into a HAP contract for a lease that is dated more than 60 days prior to the HAP contract execution date. If the HAP contract is executed within 60 calendar days of the beginning term of the lease, THDA will retroactively pay a housing assistance payment to cover the time period between the beginning of the lease term and HAP contract execution. For example, if the beginning term of the lease is January 1, and the HAP

contract is executed on February 15, THDA will retroactively make housing assistance payments to cover the time period between January 1 and February 15.

To prepare the Housing Assistance Payments contract, the Total Tenant Payment, Tenant Rent, Utility Reimbursement (if any) and the Housing Assistance Payment are determined. There are three types of Housing Assistance Payment Contracts, and they are used for the appropriate unit type:

1. Housing Assistance Payment Contract for Housing Choice Vouchers
2. Housing Assistance Payment Contract for other Federally Subsidized Units (executed prior to 10/99 only)
3. Housing Assistance Payment Contract for Mobile Home Pads

**A Housing Assistance Payment Contract is signed only when the following conditions are met:**

1. The unit passes Housing Quality Standards;
2. There is an acceptable lease;
3. Occupancy standards are met; and
4. The rent is certified as reasonable when compared to other unassisted units.

**The term of the contract stays in effect until one of the following occurs:**

1. Termination by the owner;
2. Termination by THDA; or
3. The tenant moves from the unit.

A copy of the signed contract is maintained in the tenant file, and a copy is given to the owner.

## **B. HAP Contract Execution for Zero HAP Families**

A HAP contract may be entered into when the housing assistance payment is zero if the family's housing assistance payment has been zero for less than six months (180 days). If the landlord refuses to enter into a HAP Contract for a zero amount, the family may decide to search for a new unit with continued assistance or to have their assistance terminated.

## **C. HAP Contract Execution for "Free Rent" Periods**

Owners sometimes choose to offer a "free rent" period to families. In the event that a family chooses a unit with a "free rent" period, a HAP Contract may be executed with a zero housing assistance payment. For example, if an owner offers a family a 2-month "free rent" period with a lease beginning July 1<sup>st</sup>, the HAP contract and lease will be effective July 1<sup>st</sup>. The housing assistance payment will be \$0.

A THDA representative will determine the ending date of the free rent period, and will execute an interim change effective the day following the ending date of the free rent period. Note: Because interim recertifications must be processed at the beginning of the month, an adjustment may be necessary for the time period between the end of the free rent period and the beginning of the next month. When the free rent period expires, a Notice of Change will be mailed to the family and owner who amends the HAP Contract to reflect the new housing assistance payment and tenant rent payment.

#### **D. Owner Death and HAP Contract Transfer**

In the case of an owner death, the housing assistance payments continue to be made to the owner of the property (or the person who signed the HAP contract) until appropriate documentation is received that verifies the property has been legally transferred to another party.

### **VII. PAYMENT STANDARDS [24 CFR 982.505 (b) (11)]**

The Payment Standard is the maximum monthly assistance payment for the family (before deducting the Total Tenant Payment). A Payment Standard is used to calculate the monthly housing assistance payment for a family. HUD regulations require that a Payment Standard be established for each county where the program is administered by bedroom size. Payment Standards must be established between 90 and 110 percent of the Fair Market Rent (FMR) for the county.

#### **A. Determination of Payment Standard**

The Payment Standard is the lower of the following:

- The payment standard amount (per the THDA payment standard schedule for the county) for the family unit size; OR
- The payment standard amount for the size of the dwelling unit rented by the family; OR
- The gross rent of the unit.

#### **B. Reasonable Accommodation**

If a participant requests that a higher payment standard be used as a reasonable accommodation to enable the participant to obtain a unit that meets their special needs, the Director of Section 8 Rental Assistance will consider granting an increase in the payment standard (not to exceed 110% of FMR).

#### **C. HUD Approval of Exception Payment Standard Amount**

HUD may approve a Payment Standard amount that is higher than the basic range (90-110%) for a designated part of the FMR area if the field office determines that such approval is justified by either the median rent method or 40<sup>th</sup> percentile rent. The HUD field office also

may approve an exception payment standard amount higher than the basic range (up to 120% of FMR) when required as a reasonable accommodation for a family that includes a member with disabilities.

#### **D. Effect of Decrease in Payment Standard Amount during the Term of the HAP Contract**

If the Payment Standard decreases during the term of a HAP Contract, the old *higher* payment standard is used to calculate the monthly housing assistance payment until the family's second regular recertification following the effective date of the decrease in the payment standard amount. The lower payment standard amount is used at the second annual recertification, unless the payment standard has been subsequently increased.

#### **E. Effect of Increase in Payment Standard Amount during the Term of the HAP Contract**

If the Payment Standard amount is increased during the term of the HAP contract, the increased Payment Standard amount is used to calculate the monthly housing assistance payment for the family at the effective date of the family's first regular recertification on or after the effective date of the increase in Payment Standard.

#### **F. Change in Family Unit Size during the HAP Contract Term**

If the family unit size changes during the term of the HAP contract, the new family unit size must be used to determine the Payment Standard amount at the family's first annual recertification after the change in family unit size occurs, regardless of any increase or decrease in the payment standard schedule.

### **VIII. RENT CALCULATION [24 CFR 982.501]**

A family who leases a unit with a gross rent at or below the Payment Standard pays as gross rent the highest of the following: 30 percent of monthly adjusted income, 10 percent of monthly income (gross income) or \$50.00.

There is no voucher “shopping incentive” for a family who rents a unit that is below the Payment Standard. A family that rents a unit with a gross rent that exceeds the Payment Standard pays the highest of 30 percent of monthly-adjusted income or 10 percent of monthly income and any rent above the payment standard.

#### **A. Rental Subsidy Calculation for a Housing Choice Voucher Holder**

In order to calculate the rental subsidy for HCV holder, follow the procedures as outlined below.

1. Calculate the TTP.
  - a. Calculate the gross annual income.



- b. Calculate any allowances and/or expenses to determine the total annual deductions.
  - c. Calculate the adjusted annual income.
  - d. Calculate the monthly gross income and the monthly adjusted income.
  - e. TTP is the higher of the following:
    - \$50 dollar minimum rent OR
    - 10% of gross monthly income OR
    - 30% of adjusted monthly income
2. Calculate the family's maximum initial rent burden (40% of monthly adjusted income).
3. Determine the appropriate Payment Standard. The appropriate Payment Standard is the lower of the following:
  - The Payment Standard for the family unit size, OR
  - The Payment Standard for the unit rented by the family.
4. Calculate gross rent.
5. Determine the lower of the Payment Standard and gross rent.
6. Calculate total family contribution.
7. Calculate HAP and Utility Reimbursement.
8. Calculate tenant rent to owner.

Only the TTP and 40 percent of monthly adjusted income are calculated at the time a Housing Choice Voucher is issued. The calculation is completed after the family has selected a specific unit.

## **B. Maximum Initial Rent Burden**

A family is prohibited from paying more than 40 percent of their monthly adjusted income for rent when the family first receives Section 8 assistance for occupancy of a particular unit. This rule applies to families initially moving into the Section 8 program and participating families who relocate with continued assistance. The maximum initial rent burden rule is not effective when one of the following conditions is met:

1. The family stays in the same unit where the family initially received rental assistance.
2. The family selects a unit in which the gross rent is less than or equal to the payment standard.

The family's maximum initial rent burden (40 percent of the family's monthly adjusted income) will be calculated at the time the voucher is issued to notify the family of the

maximum amount that their rent burden may be if they select a unit with a gross rent that exceeds the Payment Standard.

## **IX. RENT REASONABLENESS [24 CFR 982.503]**

It is important to THDA that the Section 8 Housing Choice Voucher Program's presence in a community not cause rents to become inflated. To prevent this possibility, THDA will not approve a lease until it is determined that the rent to owner is reasonable.

### **A. When Rent Reasonableness is Tested**

The rent reasonability test will be applied at the following times:

- Before initial move-in
- Before any increase in the rent to owner
- If there is a five percent decrease in the published FMR in effect 60 days before the contract anniversary (for the unit size rented by the family) as compared with the FMR in effect one year before the contract anniversary

### **B. Performing Rent Reasonableness Test**

THDA will observe the procedures outlined below in regard to certifying Rent Reasonableness.

1. The Section 8 staff continually collects information on rents for unassisted units in the community. This information includes the following where possible:
  - data on the type of unit
  - location of the unit
  - age of unit
  - size of the unit—approximate square footage
  - overall quality of the unit
  - number of bedrooms & bathrooms
  - amenities (bathrooms, dishwasher, air conditioning, etc.)
  - housing services and maintenance
  - utilities
2. Information is collected from all available resources including owners, realty professionals, newspapers, the Internet, etc.
3. The rent comparables are arranged by unit type and county and stored electronically in the Section 8 system. The data is updated on an ongoing basis and purged when it is more than twelve (12) months old. A summary of the number of rent comparables for each county (by bedroom size and unit type) is maintained by the area Housing Assistance Manager in a spreadsheet and is reviewed quarterly by central office management.

4. The market area for the rent reasonableness test is neighborhoods within the county where the unit under consideration is located.
5. When a unit is being considered for occupancy by a voucher holder, the Section 8 staff refers to the rent reasonableness documentation for the area, county and neighborhood where the unit under consideration is located by unit size to determine if the rent requested by the owner is reasonable. At least three (3) comparable units will be used for each rent determination.
6. If a unit under consideration is located in a market area where THDA can not locate three (3) comparable units, similar units in a market area in a contiguous county may be used for the rent reasonableness test, granted the market area closely matches the market area where the unit is under consideration.
7. If the rent is in excess of rents for comparable units, the owner has the option of lowering his rent or removing the unit from consideration.
8. If the rent on a unit selected is reasonable, the Section 8 staff prints a Rent Reasonableness Certification form from the Section 8 database, which becomes part of the tenant file. The Certification form shows that the approved rent does not exceed rents charged by the owner for comparable unassisted units in the private market and is reasonable in relation to rents charged by other owners for comparable units in the private market.
9. The HAP Contract advises the owner that by accepting each monthly housing assistance payment s/he will be certifying that the rent to owner is not more than rent charged by the owner for comparable unassisted units in the premises.
10. If requested, the owner must give THDA information on rents charged by the owner for other units on the premises or elsewhere. Owners will only be required to provide information on their units elsewhere if THDA has cause to demonstrate that the owner has a tendency to charge higher rents to program participants or if needed for rent reasonableness comparables.
11. If an owner requests an increase in rent, and THDA does not have rent comparable information to support the requested rent increase, the owner may supply rent comparable information. When the owner provides rent comparable information, the information is verified by a THDA staff member for accuracy. Note: If a rent comparable is within the apartment complex where the unit under consideration is located, only one rent comparable per bedroom size for any particular apartment complex or duplex may be utilized. Two (2) rent comparables from other complexes or locations within the market area must be obtained.
12. A determination of rent reasonableness for rent-controlled units must utilize other rent-controlled units as comparables.

## **X. UTILITY ALLOWANCES [24 CFR 982.153]**

Utility allowances are calculated for all counties in which the Section 8 Program is administered by THDA. As required by HUD, THDA reviews the allowances on an annual basis to determine if any adjustment (upward or downward) needs to be made. This analysis is based on HUD approved methodology. THDA creates allowances for each bedroom size for the following unit types: Apartments, Mobile Homes and Single Family Homes (Houses). Within the apartment category, THDA includes, low rise, high rise, town homes and duplex style housing.

At the time a Request for Tenancy Approval is signed, and at every subsequent recertification, a determination of utilities and/or services paid by the tenant is made. These obligations are shown on the Utility Allowance Schedule according to the county, the type unit (house, apartment, or mobile home), and the unit size. The unit size is determined by counting the bedrooms (regardless of how the bedroom is utilized, such as a sewing room or study). Please keep in mind that to be counted as a bedroom, the room must meet all the Housing Quality Standards requirements for a bedroom (presence of a window, door for privacy, smoke detector located outside of the room, etc.). Rooms used for sleeping purposes (such as the living room or den), are not to be included in determining unit size. The total of the utility obligations of the tenant equals the Utility Allowance.

If the Utility Allowance is greater than the tenant's Total Tenant Payment, a Utility Reimbursement is sent to the tenant. The reimbursement is equal to the amount the Utility Allowance exceeds the TTP. If the TTP is greater than the Utility Allowance, the tenant pays a portion of the rent to the landlord. This amount is equal to the amount the TTP exceeds the Utility Allowance.

The Utility Allowance is added to the Contract Rent to determine the Gross Rent for the unit.

## **XI. UTILITY REIMBURSEMENT PAYMENTS [24 CFR 982.517]**

When the Utility Allowance exceeds the Total Tenant Payment of the family, THDA will provide a Utility Reimbursement Payment to the family each month.

The utility reimbursement will be paid directly to the tenant.

## **XII. SECURITY DEPOSITS**

An owner may collect a reasonable security deposit from Section 8 tenants. THDA does not impose any limit on the amount of security deposit that can be collected by an owner as long as the amount is comparable with open market practices.

THDA will prohibit security deposits in excess of either private market practices or amounts charged to tenants of unassisted units.

## **Chapter 9**

### **ANNUAL RECERTIFICATION ACTIVITIES [24 CFR 982.516]**

#### **INTRODUCTION**

THDA must conduct an annual certification for every HCV participant. During these recertification activities, THDA verifies household composition, income and assets. THDA also conducts an annual HQS inspection of each unit and processes any contract rent increase by the owner. These activities are coordinated whenever possible. HUD requires that THDA maintain a current annual recertification on every tenant, and a record of this annual must be submitted to HUD through PIC. Specific information on the recertification process is listed below.

#### **I. ANNUAL RECERTIFICATION [24 CFR 982.516; 982.405]**

Circumstances for all families are re-examined at least annually to determine continued eligibility for the HCV program, the correct TTP and subsidy payment and the appropriate unit size. A complete recertification is also conducted when a family's household composition has changed or when a family requests to relocate at a time other than annual recertification date. If household composition has changed since the last annual, the family's HAP and unit size allocation can be impacted. The applicable payment standard in all cases is the lesser of the new allocation size or the actual unit size selected.

A family's failure to comply with the recertification requirements is grounds for termination of assistance. The tenant may request that an appointment be rescheduled if he contacts his field representative prior to the appointment date. Families are allowed one missed appointment/inspection during the recertification process. If the family misses a second scheduled appointment during the recertification process, their rental assistance is terminated for failure to comply with recertification requirements.

The following process is followed when conducting an annual recertification.

- A. A family is sent a written notice of a scheduled annual recertification ninety (90) to one hundred twenty (120) days prior to the end of the current certification period. The process begins in advance to allow sufficient time to secure needed verifications, conduct inspections and allow for repairs, coordinate a relocation, if necessary and send any notices of change in rent and/or subsidy to the owner and tenant.
- B. The head of household must complete a new Personal Declaration and any other required HUD certification forms included in the annual packet. The spouse and any other adult household members must also sign these forms verifying their accuracy.
- C. The family must decide if they plan to remain in the current unit or relocate. A relocation must be arranged with proper notice to the THDA staff.

- D. THDA sends the owner a notice of the required recertification and annual HQS inspection. The owner must submit any request for an annual rent increase under the HCV program, along with documentation of justification for the increase, sixty (60) days prior to the recertification anniversary date in order for the increase to be effective on the anniversary date. If the request and documentation is not sent sixty (60) days prior to the annual date, the increase is effective, if approved, sixty (60) days after the request is received by THDA. Staff determines the amount of increase, if any, in compliance with Rent Reasonableness.
- E. The THDA field representative obtains verification of all sources of income, assets, allowable deductions, family composition and any other required information. The verifications are valid for 120 days for recertifications (see Chapter 4).
- F. If the lease has a revolving month-to-month term after the initial term, it is not necessary to sign a new lease and HAP Contract at the annual recertification. However, the owner may submit a new lease to the tenant and THDA sixty (60) days prior to the lease anniversary date. *If THDA approves the new lease, and the tenant accepts the terms of the new lease, a new HAP Contract must be executed to ensure that the lease and HAP Contract effective dates are the same.* Properties that have received rehabilitation funding through THDA's House or Home grants programs typically offer a new lease each year. Thus, a new HAP Contract must be executed each year with these properties. The tenant may refuse the new lease. This will require relocation if the tenant intends to remain on the program.
- G. THDA staff conducts an interview/review with all adult members of the household. At this time, the information on the Personal Declaration, the application and verifications is reviewed to determine correct household income, composition and allowances. Additionally, the THDA field representative reviews program requirements, rights, responsibilities of the tenant and owner, lease and HAP Contract.
- H. THDA conducts a HQS inspection and requests any needed repairs. Failure to complete repairs for which the owner is responsible will result in abatement and/or termination of the HAP Contract. Tenant-responsible repairs that are not completed will result in termination of assistance (see Chapter 8, Time Guidelines for Inspections and Repairs). In addition to discussing needed repairs and rent increases with the owner, the staff reviews the owner's obligations under the program.
- I. The THDA field representative notifies both the tenant and owner in writing (*Notice of Change*) of any changes in the contract rent, the tenant portion of the rent, the subsidy amount and the effective date of the change. All changes are effective the first day of the month. Changes in tenant rent and subsidy are effective on the anniversary date of the annual recertification. The recertification is processed in advance to allow for a thirty (30) day notice if the tenant's portion of the rent increases or decreases. If the process is delayed, and it is the fault of the tenant (example: not keeping appointments, not providing information, etc.), any increase in the tenant's portion of the rent is effective on the anniversary date of the annual recertification.

- J. If, at the time of annual recertification, it is determined that the family no longer qualifies for a subsidy payment because the TTP is equal to or greater than the Gross Rent, the HAP Contract continues in effect for 180 days with a zero (0) subsidy payment. If the family's circumstances change during this 180 day period, they may request an interim recertification for the resumption of the subsidy. *A new lease and HAP contract may be entered into for a zero HAP family if necessary at the annual recertification date or if the family is eligible to relocate.* If the owner refuses to enter into a new HAP contract for a \$0 housing assistance payment, the family may be issued a voucher for relocation or may decide to stay in their current unit. If the family decides to stay in their current unit, their assistance is terminated.
- K. Both the owner and tenant are notified in writing if assistance and /or the HAP Contract will be terminated. The tenant's notice includes the right to request an informal hearing. A copy of the notice is placed in the tenant's file.
- L. If a new lease and HAP Contract are signed, copies of the lease are given to the owner and tenant. A copy of the HAP Contract is given to the owner. A copy of all annual recertification documents is placed in the tenant file.

## **II. ANNUAL HQS INSPECTION**

THDA will conduct an inspection using the Housing Quality Standards and any other standards established in the THDA Administrative Plan at least annually (*see Chapter 8, Housing Quality Standards*).

## **III. CONTRACT RENT ADJUSTMENTS [24 CFR 982.509]**

The owner determines the amount of any rent increase or adjustment in the HCV program. However, a rent increase may not be requested by the owner during the initial one-year term (12 months) of the lease, as stated in the HAP Contract.

The owner may increase the monthly rent after the first year of the term of the lease if he gives at least sixty (60) days written notice to the family and THDA before the commencement of the increased rent. The notice should state both the new rental amount and the effective date. The rent must be comparable with rents on similar non-assisted units. THDA advises the tenant of the impact of the increase on his portion of the rent. If the increased rent is reasonable, in most cases, the tenant is permitted to make the decision of whether or not to accept the proposed rent. If the tenant does not agree to the new rent amount, the tenant is allowed to relocate.

A change in rent amount does not affect the automatic renewal of the lease and does not require a new lease or contract or even an executed amendment. A Notice of Change will be sent to the owner and family, which states the new contract rent amount as determined by the owner, the amount the tenant must pay, the amount of the Housing Assistance Payment and any utility reimbursement to the tenant.

### **Rent Adjustment for Rural Development and other Subsidized Units**

Rent adjustments for units covered by the HAP Contract for Subsidized Units (such as Rural Development) are approved by HUD and are not subject to further approval by THDA. The rent increase may be effective during the initial term of the lease. When HUD approves an increase, THDA must adjust the contract rent the first day of the month *following notification from the owner*, even if this does not coincide with the anniversary date of the lease for the family living in the unit.



## **Chapter 10**

### **INTERIM RECERTIFICATIONS [24 CFR 982.516]**

#### **I. GENERAL POLICY**

Interim Recertifications occur because of changes in family composition, income and/or allowances or assets after the annual or initial certification and prior to the next annual recertification. Families are required to report changes in family composition, income and assets within fifteen (15) days of the date of the change.

#### **II. TYPES OF INTERIM RECERTIFICATIONS**

All families are required to report the following changes within fifteen (15) days of the occurrence of the change. The types of interim recertifications are outlined below.

##### **A. Changes in Family Composition**

All changes in family composition (anyone moving in or out) must be reported to THDA. When anyone moves into or out of the household, a Personal Declaration must be completed to reflect the change. In addition, the family member must be added or removed from the lease. Owner leases typically require the family to obtain prior written approval from the owner when there are changes in household composition. The owner's requirements may prohibit some arrangements allowed by THDA. In this case, the family must adhere to the owner's policy to avoid eviction.

THDA may use reasonable means to verify household composition such as (but not limited to) contacting other social service or government agencies, contacting the property manager or owner, contacting the family, contacting other PHAs and sending registered letters.

Changes in family composition (regardless of increase or decrease) may require a unit size change, and/or change in the applicable payment standard. In this case, the unit size and payment standard are changed at the next annual recertification following the change.

##### **1. New Household Members Moving Into the Unit**

The family obligations require the family to request and obtain THDA approval prior to adding any household member, other than births and adoptions. The household must make this request in writing. (A new member may be denied if that person fails to meet program eligibility requirements, or their presence in the household makes them ineligible).

##### **2. Household Members Moving Out of the Unit**

If a family member vacates the household, the family must report this change to THDA, in writing, and certify as to whether the member is temporarily absent or permanently absent. A family must certify in writing, and in some instances may be

required to verify through third party sources, when a household member has become permanently absent. Additional documentation may be requested to verify a new address if the household member is the head, spouse or co-head.

**a. Children Removed from the Unit**

If it is a one parent family and the children are removed from the parent for abuse or neglect or other reasons, the parent retains his eligibility as a remaining member of the household (residual). To verify the absence of the child(ren), the Department of Children Services or another appropriate agency is contacted to determine how long the children will be out of the household. If they are absent six months or longer, the unit size assigned the parent(s) is reduced and relocation requested if necessary at the next annual recertification. To be included in the unit size determination, children must reside in the unit 51 percent of the time. Fifty-one percent of the time is defined as 183 days of the year, which do not have to run consecutively.

When a single parent leaves a household and another adult comes into the household to take care of the children during the parent's absence, no change in family composition is made if the arrangement is temporary or for 30 days or less. If the parent continues to be out of the household beyond 30 days, program eligibility will be re-determined.

**b. Adult Child Leaves the Household**

An adult child, who leaves the household for military service or other reasons, is considered permanently absent. A student (other than a spouse) who attends school away from home but lives with family during school recesses is not considered a permanent household member for purposes of the unit size or family income determination.

**c. Spouse, Co-head or Other Adult Leaves the Household**

A spouse or other adult must be out of the household for at least 30 days before being considered permanently absent unless one of the following conditions is met:

- There is proof of incarceration;
- Legal separation is filed;
- A copy of divorce decree is supplied, or evidence of filing for a divorce is submitted.

If THDA discovers, in the normal process of conducting business, that there is evidence to suggest that the spouse is still in the household after he/she has been reported permanently absent, the spouse may still be considered as part of the household (income counted) for the purpose of determining income. In this case, the burden will be on the family to verify through third party sources that the spouse is permanently absent. THDA may consider the following when determining if the spouse is permanently absent:

- Federal income tax returns are filed jointly at the unit address
- Absent member is receiving mail at the unit address
- Other social service or government agencies, such as the Department of Motor Vehicles (DMV) list the absent member as a member of the household or as residing at the assisted unit address
- Absent member uses the unit address for employment purposes
- Criminal or arrest records show the absent member as residing at the unit address

### **3. Adult Visitors**

Adult visitors are allowed to stay up to thirty (30) calendar days a year in the unit before becoming considered a permanent household member. If the person is a visitor and stays in the assisted unit less than thirty (30) calendar days a year, no change in family composition is required.

If an adult visitor stays in the unit for more than 30 calendar days per year (the days do not have to run consecutively), he is considered to be living in the unit as a member of the household. The following will be used to verify that a person is living in the unit as a household member when the family has failed to report the change in family composition:

- Reliable statements from neighbors and/or the landlord
- Visitor is receiving mail at the unit address
- Other social service or government agencies, such as the Department of Motor Vehicles (DMV), list the visitor as a member of the household or as residing at the assisted unit address
- Visitor uses the unit address for employment purposes
- Criminal or arrest records show the visitor as residing at the unit address

The burden of proof that the individual is a visitor and not a household member rests with the family. In the absence of such proof, the individual will be considered an unauthorized member of the household.

A full time student who lives at school other than during school recesses may visit up to 150 days per year without being considered a member of the household.

### **4. Family Absence from the Unit**

Families must report long term absences from the unit (when the absence will exceed 15 consecutive days). If the family has to leave the assisted unit for more than 30 calendar days, the unit will not be considered to be their sole place of residence, and their assistance will be terminated. Exceptions may be requested for verifiable medical reasons when the household consists of one member. If the sole of the

household has to leave the household to go to a medical facility, the unit will be still be considered to be their sole place of residence unless the member will be confined for more than 90 days.

## **B. Type or Source of Income Changes**

Any change in the type or source of income, including anyone starting to work must be reported, and the following procedures will be followed for processing the income change:

### **1. Decrease in Income**

If a participant's income decreases, an interim is always processed, unless the income was calculated based on an averaging method.

If a participant's income frequently fluctuates, an average may be calculated for the purposes of processing the interim based on past history (average of at least the last 6-month's income pattern). The option to average is entered into solely at the discretion of THDA (participants may not request to have their income averaged). If an average is utilized, THDA must inform the participant that an average is being used and that the amount will stay constant for a specific time period (usually 6 months or until the next annual recertification). The participant must still report all required changes, but no interim activity will be processed during the time specified regardless of whether the income goes up or down.

### **2. Increase in Income and Income Type Change**

If a participant's income increases AND the increase involves a change in type or source of income, an interim is always processed. A change in type of source of income occurs when the family begins receiving income from a new source (i.e. begin receiving welfare assistance (TANF) instead of family support) or when the type of income changes (i.e. family member loses job and begins receiving unemployment benefits).

### **3. Increase in Income and No Income Type Change**

If a participant's income increases AND the increase does not involve a change in type or source of income (e.g. wage increase at same job) AND it will result in a gross monthly income increase of \$250 dollars or less, an interim is not processed. All increases that result in a gross monthly income increase of more than \$250 dollars must be processed as an interim.

## **C. Change in Assets**

The receipt of an addition to assets such as an insurance settlement, inheritance, lottery winnings, worker's compensation settlement, etc. or a lump sum that represents the delayed start of a periodic payment (other than Social Security) must be reported.

#### **D. Other Interim Recertifications**

- Families with zero income are scheduled for an Interim Recertification every 90 days until there is evidence of some household income.
- Interim Recertifications may be scheduled for any family whose income is unstable or when a change is anticipated.
- Interim Recertifications are conducted to correct any errors made by staff at admission or reexamination. The family is not charged retroactive rent for errors made by staff.
- Interim Recertifications are conducted for families whose rent has been based on false or incomplete information supplied by the family. In this case, if the income is higher than previously reported, the family will be required to enter into a repayment agreement for retroactive tenant rent.

### **III. INTERIM VERIFICATION PROCEDURES**

Only those factors that have changed are verified using the methods outlined in Chapter 4, Verification Guidelines, at Interim Recertifications.

### **IV. DEADLINES FOR REPORTING**

Families are required to report and verify changes within fifteen (15) days of the occurrence.

### **V. PENALTIES FOR NOT REPORTING**

#### **A. Failure to Report an Interim**

If the family fails to report a change which they are required to report until the time of the annual recertification, the amount of any overpayment of subsidy is calculated. Then, the family is asked to reimburse THDA for the overpayment. Failure to reimburse the agency in full or enter into a plan of repayment may be grounds for termination of assistance.

A 30-day notice is not required for increased rent under this circumstance.

#### **B. Failure to Report an Interim or at Annual Recertification**

If the family has experienced a change that they are required to report, and they neither report it as an interim change nor at the time of annual recertification, this is considered a program violation. In this case, the rental assistance may be terminated and repayment is required.

#### **C. Timing of Changes**

If the family does not report a change within the required 15 days, the family is considered having caused an unreasonable delay in the interim process. The effective dates of the change reflect this delay as follows:

- **Increased Tenant Rent:** The change is effective retroactive to the date it would have been effective had it been reported in a timely manner. Tenant must pay in full or sign a plan of repayment.
- **Decreased Tenant Rent:** The change is effective on the first of the month following completion of processing (not on a retroactive basis).

#### **D. Results of Changing Family Composition without Notification**

Failure to get the required prior approval from THDA for an addition to the family's composition or failure to report a family member leaving the household is grounds for termination.

### **VI. EFFECTIVE DATES OF CHANGES**

#### **A. Instable Income Changes**

If an interim change occurs due to unstable income changes, the processing of the interim may be delayed until the income is stable. For example, a family reports the loss of a job, but indicates they have applied for unemployment benefits. If there will be a decision made on the unemployment claim within a few weeks, it may be advisable to delay processing the interim until the unemployment claim is processed.

If the delay is intentional by THDA and will result in decreased tenant rent, the change is made retroactive to the beginning of the month following the month the change was reported and an adjustment is made to the housing assistance payment.

#### **B. Reported Change not Required to be Reported**

If the family reports a change in income that they are not required to report (i.e. Social Security increases), and the change results in an increase in the TTP, the change is not processed as an interim. The change will be processed at the next annual recertification.

#### **C. Changes Resulting in Tenant Rent Decrease**

Changes that result in a decrease in tenant rent are effective the first of the month following the month the change is reported (after the completion of processing) as long as the following conditions are met:

- The change is reported within 15 days of the occurrence; and
- The family cooperates in assisting THDA with receiving any necessary verification within the 15-day period.

If the family does not report the change in a timely manner, they may incur penalties. See above, Penalties for not Reporting.

#### **D. Changes Resulting in Tenant Rent Increase**

Changes which result in an increase in tenant rent are effective upon 30 days notice prior to the first of the month as long as the following conditions are met:

- The change is reported within 15 days of the occurrence; and
- The family cooperates in assisting THDA with receiving any necessary verification.

If the family does not report the change in a timely manner, see above, Penalties for not Reporting.

#### **E. Processing Delay by THDA**

If a delay in processing is caused by THDA, the tenant is not penalized. A decrease in tenant rent is effective retroactive to the date it should have been effective. If the tenant rent increases, the tenant receives a 30 day notice once the processing is complete.

### **VII. NOTICES**

Anytime there is an increase or decrease in the tenant rent, Housing Assistance Payment, and/or utility allowance, the tenant and owner are sent a written notice (Notice of Change Amendment form). The notice amends the HAP Contract and states the new amounts, the reason(s) for the change, and informs the tenant of the right to request an informal review if there is any disagreement with the revised figures. A copy of the notice is placed in the tenant file.

## **Chapter 11**

### **TERMINATIONS AND COURT-ORDERED EVICTIONS [24 CFR 982.552 (b); 24 CFR 982.310; 982.455; 982.314]**

#### **I. GENERAL POLICY**

HUD regulations specify the reasons for which a PHA can terminate a family's assistance and the ways in which such terminations must take place. PHAs may also establish local policies for termination. HUD regulations also dictate the circumstances under which an owner may terminate the tenancy of an assisted family under the HAP contract. This chapter presents the HUD policies that govern voluntary and involuntary terminations of assistance, agency policy for termination and termination of tenancy by the owner.

#### **II. TERMINATION OF ASSISTANCE [24 CFR 982.552(b)]**

All terminations of assistance are stated in writing to the applicant. The termination notice informs the tenant of their right to an informal review. A copy of the notice is filed in the tenant's file.

Rental assistance may be terminated for any of the following program violations (Note: Family in this context means any member of the household):

1. The family is guilty of program fraud or abuse in any federal housing assistance program. The fraud must be verified.
2. The family is guilty of fraud or abuse in any other federal or state assistance programs (e.g. TANF or Social Security Administration Programs). If the family has committed fraud in a state or federal assistance program but can verify that they were placed under a court-ordered restitution program and the restitution has been paid in full, they will be eligible.
3. The family refuses to reimburse the program in full for overpayment of subsidy for unreported income or change in family status.
4. The family defaults under a plan of repayment as defined by the Repayment Agreement.
5. The family's Total Tenant Payment is sufficient to pay the full gross rent ("zero HAP"), and 180 days has elapsed since the last Housing Assistance Payment was made.
6. Verification of a Social Security number for any household member is not furnished within the time required.
7. Declaration of citizenship or eligible immigration status is not submitted by specified date; or evidence is submitted but Department of Homeland Security primary and



secondary verification does not verify eligible immigrant status; and one of the following conditions apply:

- Family does not pursue Homeland Security appeal or informal hearing rights; or
  - Homeland Security appeal and hearing rights are pursued, but final appeal or decisions are decided against the family member.
8. The family requests in writing that assistance be terminated.
  9. There is no member of the household age 18 or older who can serve as head of household.
  10. The family engages in or threatens any abusive or violent behavior toward THDA personnel.\*
- \*Abusive or violent behavior towards THDA personnel includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, which is customarily used to insult or intimidate may be cause for termination or denial of assistance.*
11. The family violates their obligations under the program as defined in this Plan and by the voucher or Statement of Family Responsibility. When the family is terminated for a violation of their family obligations or responsibilities in the program, they are barred from participating in the program again for a period of three years.
  12. The family seriously or repeatedly violates a lease. Serious and repeated lease violations include, but are not limited to the following:
    - repeated non-payment or late payment of the tenant's portion of the rent; and/or
    - outstanding debt to a landlord due to damages to the unit beyond normal wear and tear that exceeds the security deposit (even if the tenant has relocated from the unit where the damages or unpaid rent occurred).

The following will be considered when deciding if a serious or repeated violation of the lease will result in termination of assistance:

- If the owner terminates tenancy through court-ordered eviction (owner must provide verification of the court action)
- If the owner notifies the family of termination of tenancy for serious or repeated lease violations, the family moves from the unit prior to the completion of court action, and THDA determines that the cause is a serious or repeated violation of the lease based on available evidence
- If the owner notifies the family of termination of tenancy for serious or repeated lease violations, and the family moves from the unit prior to the completion of

court action, and there are police reports, neighborhood complaints or other third party information that has been verified by THDA.

- In cases of outstanding debt or damages, if the family repays the debt to the owner in full, and/or establishes a repayment agreement with the owner to repay the debt

13. The family is convicted of criminal activities, as defined below.

### **III. DENIAL OR TERMINATION FOR CRIMINAL ACTIVITY BY A HOUSEHOLD MEMBER [24 CFR 982.553]**

Families that include a household member who has engaged in certain criminal activities will be denied admission to or terminated from the program in order to protect the welfare of the program and community where the family will reside. (Note: Family in this context means any member of the household).

#### **A. Mandatory Program Denials/Terminations**

HUD regulations require prohibiting program admission to an applicant or terminating a participant under the following circumstances:

1. An applicant has been evicted from federally assisted housing for drug-related criminal activity within the past **three** (3) years (36 months from the date of eviction).

*Denial/Termination of Assistance may be waived if one of the following conditions is met:*

- a. The drug-related criminal activity involves the use or possession for personal use of a controlled substance if the household member who engaged in the drug-related activity demonstrates successful completion of a supervised drug or alcohol rehabilitation program approved by the PHA.\*

*\*Denial of assistance may not be waived when the drug -related criminal activity involves the illegal manufacture, sale, distribution or the possession with intent to manufacture, sell, or distribute a controlled substance. A supervised drug or alcohol rehabilitation program does not include Alcoholics Anonymous, Narcotics Anonymous or other self-help treatment programs. The family member must provide verification of the completion of a drug or alcohol rehabilitation program.*

- b. The circumstances leading to eviction no longer exist (e.g. the criminal household member has died or is imprisoned).
2. An applicant family includes a household member that is subject to a lifetime registration requirement under a State sex offender registration program.

Individuals who are subject to a lifetime registration requirement under a State sex offender registration program are always prohibited from receiving Section 8 rental assistance.

3. An applicant family includes a household member who has *ever* been convicted of a drug-related criminal activity involving the manufacture or production of methamphetamine on the premises of federally-assisted housing.

## **B. Other Program Denials/Terminations**

HUD regulations allow PHAs local discretion in establishing additional prohibitions to admission or termination of a household when the PHA determines that any household member is currently engaged in, or has engaged in during a reasonable time before admission or during participation in the program, certain criminal activities. Denial of assistance will result if THDA receives information during the normal process of qualifying an applicant for admission or recertifying eligibility for participation in the Section 8 Program upon which THDA may reasonably determine that there is a record of drug-related criminal activity, severe alcohol abuse, violent criminal activity or other criminal activity.

The family will be denied/terminated if any adult household member has a criminal record that meets one of the following conditions:

1. Any household member has been convicted\* of a felony drug-related, alcohol-related, violent criminal activity or other criminal activity in the past twelve (12) months;
2. Any household member has been convicted\* of two (2) or more misdemeanor drug-related, alcohol-related, violent criminal or other criminal acts in the past twelve (12) months;
3. Any household member has three (3) or more convictions\* for a misdemeanor or felony drug-related, alcohol-related, violent criminal activity or other criminal activity, one of which is less than three (3) years (36 months) old;
4. Any household member has one or more convictions\* for a felony sex offense in the past ten (10) years or any conviction\* (felony or misdemeanor) of a sex offense involving a minor;
5. Any household member has been arrested two (2) or more times during the past six (6) months or three (3) or more times during the past twelve (12) months (felony or misdemeanor), for a drug-related, alcohol-related, violent criminal activity or other criminal activity; or
6. Any household member or guest of a household member is arrested for or convicted of a drug-related or violent criminal activity that allegedly occurred on

or near the assisted unit premises at any time during the family's program participation.

*\*A criminal conviction occurs when on the date of final judgment (felony or misdemeanor offenses) a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere is entered and does not include a final judgment that has been expunged by pardon, reversed, set aside or otherwise rendered nugatory. A judgment of pre-trial diversion will be treated as a judgment that is rendered nugatory. Families that include a member with a criminal disposition of post-trial diversion following a criminal conviction are not eligible to receive assistance until the terms of diversion are met; record expunged; or the family becomes eligible otherwise.*

Denial/Termination of Assistance may be waived if the drug or alcohol-related activity involves the use or possession for personal use of a controlled substance if the household member who engaged in the drug or alcohol-related criminal activity demonstrates successful completion of a supervised drug or alcohol rehabilitation program approved by the PHA.\*

*\*Denial of assistance may not be waived when the drug or alcohol-related activity involves the illegal manufacture, sale, distribution, or the possession with intent to manufacture, sell, or distribute a controlled substance. A supervised drug or alcohol rehabilitation program does not include Alcoholics Anonymous, Narcotics Anonymous or other self-help treatment programs. The family member must provide verification of the completion of a drug or alcohol rehabilitation program.*

### **C. Definitions**

THDA defines the following terms in the manner described below.

#### **1. Drug-Related Criminal Activity\***

The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell or distribute or use a controlled substance (as defined in the Controlled Substance Act)

#### **2. Violent Criminal Activity\***

Any criminal activity that has as one of its elements the use, attempted use or threatened use of physical force against the person or property of another

#### **3. Alcohol-Related Criminal Activity**

Any pattern of abuse of alcohol by a household member that may interfere with the health, safety or right to peaceful enjoyment of persons residing in the immediate vicinity of the applicant household

For purposes of denial, a household member must not have engaged in an alcohol-related criminal activity that threatened the health, safety or peaceful enjoyment of the community or neighborhood where the family resided at the time they applied for admission to the program.

**4. Sex Offense**

Any act defined in Tennessee Code Annotated 40-39-102\*

**5. Other Criminal Activity**

Any criminal activity that is determined by THDA staff to threaten the health, safety or right to peaceful enjoyment of persons residing in the immediate vicinity of the applicant household

For purposes of denial, a household member must not have threatened the peaceful enjoyment of the community or neighborhood where the family resided at the time they applied for admission to the program.

*\*Criminal activity may occur on or off the unit premises, not just on or near the premises.*

**D. Screening for Criminal Activity (Background Checks)**

THDA will screen all Section 8 applicants (including the head of household and all household members who are eighteen years of age or older as of the application date) for prior criminal arrests and convictions. THDA will also screen any Section 8 participant (adult household members) for criminal arrests and convictions when there is a reasonable suspicion that the member has been involved in a criminal activity.

Prior to voucher issuance and during all recertifications, the family must provide information to THDA for all adult household members as to the existence of a criminal record. For applicants, in addition to criminal record information, the family must provide their last known address (city and state) and certify whether they have been evicted from public housing.

Based on the family's certification, THDA will complete and incur the cost of an initial criminal background check and make a determination of program eligibility in accordance with the following procedures:

1. The head of household must complete and provide to THDA a Personal Declaration form that identifies at a minimum the names of all household members, last known address, existence of a criminal record, public housing eviction status, Social Security numbers, dates of birth FOR ALL HOUSEHOLD MEMBERS as well as whether any member is a registered sex offender. THDA will review the Personal Declaration form for completeness and, if necessary, may request additional clarification on any of the provided information.

The head of household and all adult household members over eighteen (18) years old are required to sign a Consent Form that authorizes any law enforcement agency to release criminal conviction records concerning the household member to THDA in accordance with federal confidentiality and disclosure requirements. If any household member declines to sign the consent form, THDA is prohibited

from authorizing them to receive rental assistance as part of the Section 8 household.

2. Once the applicant's name is reached on a waiting list and is called into the THDA office for an eligibility screening review during a tenant recertification, the THDA Field Representative will contact the appropriate person at the Central Office and request that a criminal records check be conducted on all household members who are eighteen (18) years of age or older. The Field Representative will provide all household information necessary to conduct the criminal records check, including information provided by the applicant or tenant on prior arrests, convictions and residences.
3. The Central Office staff member assigned to coordinate the criminal records check will conduct the background checks in accordance with the requirements of the agency/source that the criminal background checks are obtained from (the records check will include both felony and misdemeanor criminal records).
4. The THDA Central Office assigned staff member will also conduct a search of the Tennessee Sex Offender registry for all household members eighteen years of age or older to identify possible matches.

*The Field Representative is responsible for conducting a check of any previous public housing assistance to determine if the applicant has been evicted.*

5. The results of all criminal background checks and Tennessee Sex Offender Registry checks received ONLY will be reviewed by the assigned Central Office staff member. All criminal background check documentation will be maintained in a confidential manner at the Central Office. The head of household, adult household member for which a criminal record was identified and/or their legal counsel may request a copy of the record. THDA will not release the record to any other party. The record will be retained for a period not to exceed ninety (90) days following the eligibility decision and any appeal hearing.
6. If an applicant applies and is denied due to the results of a criminal background check, then reapplies within ninety (90) days, the criminal background check conducted during the applicant's previous eligibility determination may be used to re-determine eligibility. A new background check is not necessary when the previous criminal background check was conducted within the past ninety (90) days.

### **Positive Criminal Record Identification (“positive hits”)**

If the background check identifies the presence of a felony or misdemeanor arrest or conviction, or identifies that the applicant/tenant is identified on the Tennessee Sex Offender Registry, the THDA Central Office assigned staff member will invoke the following procedures:

1. The Central Office assigned staff member will notify the local Field Representative of the presence of a criminal arrest or conviction record within 48 hours of receipt of the criminal records check.

The Central Office assigned staff member will provide a Criminal Records Check Summary identifying the presence of a criminal records check history for all household members and will indicate on the form if the offense(s) identified prohibits the applicant household from being eligible to receive a voucher or receive continued assistance, according to THDA administrative policy.

2. The Criminal Records Check Summary will be maintained in the applicant file.

If the background check identifies the presence of a felony or misdemeanor arrest with a disposition or court date pending within thirty (30) days, the application may be held until the disposition is complete to allow a proper decision to be made concerning eligibility. If the background check identifies the presence of a felony or misdemeanor arrest with a disposition or court date pending more than thirty (30) days in the future, the application will be processed. THDA will schedule another criminal background investigation for a period after the court date and may terminate the family's assistance if a criminal record that meets THDA termination requirements is found.

### **Negative Criminal Record Identification**

1. The Central Office assigned staff member will notify within 48 hours of receipt from the criminal records check source, the local Field Representative of the non-presence (negative hit) of a criminal records history for all household members. A Criminal Records Check Summary will be forwarded to the Field Representative via fax or mail.
2. The Field Representative will continue with the regular eligibility determination for the voucher program.
3. The Criminal Records Check Summary will be maintained in the applicant file.

### **Appeal/Dispute Procedures**

The applicant will have the right to appeal and dispute any finding of a criminal record obtained by THDA. The appeal must be made in accordance with *Chapter 15, Complaints and Appeals, THDA Administrative Plan*. THDA may consider the following when rendering a decision at the informal hearing:

- For illegal drug use or alcohol abuse by a family member, THDA may consider whether or not the family member is either no longer a member of the household, or whether the family member has participated in and successfully completed a supervised drug or alcohol rehabilitation treatment program. For this purpose, the

family must submit evidence of the household member's absence from the household or successful completion of a supervised drug or alcohol treatment program. THDA may impose, as a condition of assistance, that a family member who engaged in criminal activity not reside in the assisted unit.

- THDA will consider other documentation that contradicts the criminal background screening conducted by THDA.

#### **IV. NOTICE OF TERMINATION OF ASSISTANCE**

A written notice of termination of assistance is sent to the family. Except in cases where the family has vacated the unit without notice to the Section 8 Staff or has failed to make emergency repairs, the family is given thirty (30) days notice of the intent to terminate. The termination notice will be sent by certified mail. If the family fails to accept the certified mail, other options for delivery of the notice may be utilized, such as a second mailing attempt or personal delivery of the letter by THDA staff. If any household member accepts (by signature) the certified mail, it is considered to be received by the head of household.

The notice states the following:

- The reason(s) for the termination (the act or failure to act);
- The effective date of the termination;
- The family's right to request an informal review; and
- The family's responsibility to pay the rent in full if they remain in the unit.

At the same time that a Notice of Termination of Assistance is sent to a family, a Notice of Termination of Housing Assistance Payment (HAP) Contract (THDA HO-0389) is sent to the owner. The forms should be mailed to the tenant and owner on the same day in order to give both parties a 30-day notice of termination.

#### **V. MANDATORY DENIAL AND TERMINATION [24 CFR 982.552(b) (10)(d)]**

Denial and/or termination of assistance must occur if one or more of the following conditions applies:

1. If any member of the family fails to sign and submit HUD or THDA-required consent forms for obtaining information;
2. If no member of the family is a U.S. citizen or eligible immigrant;
3. If the family is under contract and 180 days have elapsed since the last housing assistance payment was made ("zero Hap" period ends);
4. If an applicant or tenant household includes a member that is subject to a lifetime registration requirement under a State sex offender registration program; or



5. If an applicant or tenant household includes a member who has ever been convicted of a drug-related criminal activity involving the manufacture or production of methamphetamine on the premises of federally-assisted housing.

## **VI. TERMINATION OF TENANCY**

Tenancy may be terminated by the owner, the tenant or by mutual recision. THDA's policies for terminating tenancy are outlined below.

### **A. Termination by Owner**

Procedures for terminating the tenancy are defined by the lease.

The owner may terminate tenancy in accordance with state and local law and only for the following reasons:

1. Serious or repeated violations of the terms and conditions of the lease;
2. Violations of Federal, State, or local law which directly relate to the occupancy or use of the unit or common areas; or
3. Other good cause, which includes but is not limited to the following:
  - a. not accepting an offer of a new lease\*\*;
  - b. family history of disturbance to neighbors, destruction of property or habits that result in damage to the unit;
  - c. criminal activity by family members or guests of family members, including crimes of physical violence on or near the premises;
  - d. owner desire to use the property for personal use\*\*; or
  - e. business or economic reasons such as the sale of the property, renovation or the request for a rent higher than THDA can approve (owner must notify HUD of intent)\*\*.

*\*\* Note: The owner may not terminate tenancy during the first year of the lease for good cause as defined by 3a, 3d or 3e.*

An owner must give the family and THDA a written notice of intent to terminate the lease in compliance with the lease terms and with state and local laws. The notice should provide a minimum of thirty (30) days' notice, and it should be given at the first of a month.

If the family desires to remain on the program and continues to be eligible, they are allowed to relocate to a new unit.

## **B. Termination by Family**

The family is told as part of their briefing that they are expected to remain in the unit at least twelve months (or the term of the lease). If a family and landlord agree to a mutual rescission of the lease during the initial 12 months of tenancy, a new voucher is issued unless the family has violated a family obligation or there is another reason to deny the relocation (such as the family has already initiated a relocation during the past twelve months).

The family is required to give the owner at least thirty (30) days notice of intent to vacate on the first of a month, and must terminate the tenancy in compliance with the lease. Due to the notice requirement, the family is advised at their first annual recertification that they need to decide whether or not they plan to lease the unit for another year (or term). If they do not plan to remain in the unit, they are advised they must give the owner at least a 30-day written notice on the first of a month. This means that they family should notify the owner of their intent to relocate by no later than the first of their twelfth month in the unit.

A family may notify THDA of its intent to look for a new unit for the purposes of relocation just prior to or after the initial 12-month period, and a new voucher may be issued, as long as the participant remains eligible for assistance. A 30-day notice to the owner is not required for a relocation voucher to be issued. However, once a new unit is found and the family makes known to THDA their intent to move, a 30-day notice to vacate must be given to the owner. The notice should be given on the first of a month and in compliance with the terms of the lease.

Failure to notify the current owner prior to relocating is grounds for termination of assistance. The family must provide a copy of the 30-day notice to the Section 8 staff. If the family vacates the unit without prior notice to the Section 8 staff, it is a violation of family obligation, and the family's assistance is terminated. This is also applicable to portability as the family is required to notify THDA of their desire to move to another jurisdiction as well as disclose the new location.

## **C. Termination by Mutual Rescission**

The owner and tenant may mutually agree to terminate the lease on the last day of any month. This agreement must be stated in writing with an effective date and be signed by both parties. This is the suggested method for tenants who wish to move during the first twelve months of the lease. A Notice of Relocation will be mailed to the tenant, and a Termination of HAP Contract will be mailed to the owner when THDA staff receives a copy of the written mutual rescission. These documents are effective on the date agreed upon by the owner and the tenant.

THDA is responsible for paying HAP only through the effective date of the notice, even if it is not a full 30-day time period. Copies of all notices are placed in the tenant file.

If the tenant decides to stay in the unit after the mutual rescission is signed, the tenant is responsible for the entire rental payment. If the tenant and the owner agree to rescind the

mutual rescission, the tenant must provide THDA with documentation that both parties have rescinded the mutual rescission. The documentation must be provided in a reasonable time period (within 15 days) of the date of rescission. THDA will resume HAP payments fifteen (15) days after the date the documentation is received. If the request to rescind the mutual rescission is received after the effective or end date of the mutual rescission, the tenant is responsible for the entire rental payment for a minimum of fifteen (15) days or until THDA is able to resume HAP payments.

**Example:** The end date of the mutual rescission is December 31, and the family notifies THDA that they will stay in the unit on December 18. The family is responsible for the first fifteen days of January rent.

If the tenant notifies THDA after the end of the notice period, the family is responsible for fifteen (15) days rent or the number of days between the end date of the notice and the date THDA is notified of the family's intent to remain in the unit, whichever is longer.

**Example:** The end date of the mutual rescission is December 31, and the family notifies THDA that they will stay in the unit on January 28. The family is responsible for the full rental payment through January 28.

## **VII. TERMINATION OF HAP CONTRACT (form THDA HO-0389)**

The Housing Assistance Payments Contract may end automatically, or THDA or the owner may initiate the termination. Termination of the Housing Assistance Payment Contract means no further subsidy payments are made for a particular unit. It does not necessarily mean the tenant's subsidy eligibility has been terminated. No further payments will be made to an owner when a HAP Contract has been terminated.

### **A. Automatic Termination of HAP Contract**

The following situations warrant the automatic termination of HAP Contract.

#### **1. Family moves without notice**

If a family moves without notice to THDA or the owner, the Contract is automatically terminated. The family has violated both the lease and the family obligations.

*The owner may keep the HAP for the month in which the tenant moved out. The family may not be eligible for future assistance under the program as this constitutes a violation of the Family Obligations.*

#### **2. Family moves with notice**

If a family gives a written notice to THDA and the owner of the family's intent to relocate, a Notice of Relocation and Termination of HAP Contract should be prepared and mailed to the tenant and owner. HAP will be paid to the owner through the effective date of the notice. If the tenant remains in the unit after this date, he is responsible for the entire rental payment. If the tenant changes his mind, it is his responsibility to inform the owner and THDA 15 days in advance of the effective date

of the relocation to allow time for processing the paperwork. (*See Chapter 12 for rules concerning overlapping HAP payments.*) The family is not eligible to relocate until the end of the initial term of their lease (full 365 days) unless a mutual recision is executed.

**3. Mutual Recision**

Both the owner and tenant agree through mutual recision to terminate the lease. The HAP Contract terminates the same date as the lease termination date. The HAP payment continues only through the effective date of the mutual recision (the date agreed to by the family and the owner).

**4. Court-ordered Eviction**

The owner evicts the family from the unit by initiating court action. The owner must notify the family and THDA in writing before such action is taken (a copy of the detainer warrant is considered sufficient notification). This notice must state the reason(s) for the eviction, and the date the family will be requested to move from the unit. The owner may keep the HAP for the month in which the tenant was evicted from the unit by the court. *Note: A Notice to Vacate is not considered an eviction, but rather, the eviction must be court-ordered.*

**5. Death of Head of Household**

When a single head of household, in a household with no remaining members, dies, the lease and HAP contract are terminated. Often, however, the family needs at least thirty (30) days to remove the deceased's belongings. Thus, in cases of death, the HAP Contract will be terminated and HAP payments will end thirty (30) days from the date of the death (regardless of the date the death is reported to THDA). When calculating the 30 day period for payment purposes, the date of the death is the first day in the notice period.

**6. Burn-out**

When a unit burns to the degree that it is uninhabitable, the HAP Contract is terminated. Due to the HQS regulations, which prohibit a HAP payment for a unit that fails to meet HQS standards, the HAP Contract is terminated and HAP payments end the day following the fire (regardless of the date the fire is reported to THDA).

**7. Lease Termination**

When the lease terminates, the HAP Contract automatically terminates.

**8. Zero HAP for 180 Days**

When a family's income increases so that their Total Tenant Payment is equal to or greater than the gross rent, and there is no Housing Assistance Payment, the situation is called "zero HAP." The family is notified of their right to remain on the Program at zero assistance for 180 days.

Regular recertifications and inspections are conducted at the normal annual recertification time. If the household income changes, an interim recertification is

conducted and notices sent to the family and the owner. If the change in income results in a Housing Assistance Payment again, the family is no longer “zero HAP.”

If the family chooses to move to another unit during this period, a HAP Contract may be executed for a zero housing assistance payment. The unit must be the appropriate size and pass Housing Quality Standards.

During the “zero HAP” period, an owner may request a rent increase at the lease anniversary date. If the increased rent results in a HAP payment, the “zero HAP” period ends.

The family remains on the Program for 180 days from the effective date of zero assistance. If the family remains at zero assistance for 180 days, a notice of termination of assistance is sent. The family must reapply if their circumstances change at a later date.

#### **9. Physical/Verbal Abuse of THDA Staff**

If a landlord/owner engages in threatening verbal or physical abusive behavior\* toward THDA personnel, the HAP Contract may be terminated.

If an applicant or participant engages in threatening verbal or physical abusive behavior toward THDA personnel, the family’s assistance, and thus the HAP Contract, may be terminated.

*\*Abusive or violent behavior towards THDA personnel includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, which is customarily used to insult or intimidate may be cause for termination or denial of assistance.*

#### **B. Owner Termination of HAP Contract**

The owner may terminate the Contract when he wishes to remove the unit from the program, except during the initial term of the Contract. Proper procedures must be followed.

#### **C. THDA Termination of HAP Contract**

A Contract may be terminated by THDA for one of more of the following reasons:

1. The owner refuses to bring the unit into compliance with Housing Quality Standards.
2. The owner is out of compliance with other terms of the Contract.
3. The owner has committed fraud.
4. THDA terminates assistance to the family.
5. The family is required to move from the unit because of overcrowding or under-occupied conditions.

#### **D. Notices Required for Termination of HAP Contract**

A Notice of Termination of Housing Assistance Payment Contract (*THDA HO-0389*) is sent to the owner any time subsidy for a particular unit terminates. At the same time, a Notice of Termination of Assistance will be sent to the family. A minimum of 30 days' notice will be given when a HAP Contract is terminated, *even when the tenant notifies THDA of their desire no longer to receive rental assistance.*

The Notice of Termination of Housing Assistance Payment Contract states the following:

- The reason(s) for the termination;
- The effective date;
- The deadline for submitting special claims (if allowable); and
- The family's responsibility to pay the full rent if they remain in the unit.

If assistance is also terminated, the tenant is sent a Notice of Termination of Assistance. A copy of the notice is placed in the tenant file.

#### **VIII. COURT-ORDERED EVICTION [24 CFR 982.310; 982.455]**

An owner may evict a family from a Section 8 unit by initiating court action. The owner must notify the family in writing with a copy of the notice sent to THDA before the action is taken (a copy of the detainer warrant is considered sufficient notification). The notice must state the reason(s) for the eviction and the date the family is expected to move from the unit. Subsidy is continued until eviction is complete, and the tenant is out of the unit.

THDA does not approve or disapprove evictions. The appropriate court makes the eviction decision. However, staff may make an effort to mediate the difference between the family and the owner so the eviction may be avoided. A family requesting advice on the eviction is referred to the local legal services office or the private attorney of their choice.

Eviction, dependant upon the circumstances, is usually grounds for termination of assistance. In order to terminate the family's rental assistance, THDA must receive appropriate documentation from the owner.

An owner who does not follow correct procedures in evicting a Section 8 family may be barred from future program participation.

## **Chapter 12**

### **RELOCATIONS AND PORTABILITY [24 CFR 982.314]**

#### **INTRODUCTION**

The Housing Choice Voucher program was created with the intention of allowing participant families to relocate as necessary. HUD has given local housing authorities the authority to develop policies and procedures regarding these relocations in accordance with local needs and budget considerations.

When a participant family wishes to move within Tennessee Housing Development Agency's jurisdiction, this move is called a relocation. Families are allowed one tenant-initiated move every twelve (12) months. Relocations are also allowed when a family is displaced from their unit due to owner action, THDA action or severe damage. More information on relocations is in this chapter.

When a participant family wishes to move to an area located in another housing authority's jurisdiction, this process is called portability. The family takes the voucher with them to the new housing authority. The receiving housing authority has the ability to choose to administer the voucher or to absorb the voucher. Families who wish to relocate to THDA's jurisdiction are also called portables. Due to budgetary constraints, HCV tenants are limited in their portability options. More policies on portability are found in this chapter.

#### **I. RELOCATIONS**

The following sections detail the process of relocations for THDA Section 8 participant families.

##### **A. The Relocation Process**

When a HCV participant family decides that they want to move to a new unit in their county of residence or any other county in THDA's jurisdiction, the head of household should notify their field representative immediately. The field representative will determine if the family is eligible for relocation at the present time and will then instruct the family on the proper procedures to follow to remain in good standing with THDA.

If the family is eligible, they will be instructed to begin searching for a new unit. The field representative will give the family the size and payment standard of the unit for which they are eligible. If the family plans to relocate to another county, the family may be assigned to a new field worker and/or a new THDA field office. At the family's request, the field worker will issue the family a handwritten voucher for searching purposes. The voucher will not be generated through the Housing Pro software nor will a voucher issuance transaction be transmitted to HUD's PIC system. Families will be given as much time as needed to locate a new unit as long as they remain eligible for the HCV program and relocation and stay in

good standing with THDA. The family may search for a new unit while inhabiting their original unit.

Once the family has identified a suitable unit, the head of household must submit a Request for Tenancy Approval (RTA) signed by the owner and the head of household and a copy of the owner lease for the new unit. When these documents have been received, a THDA staff member will schedule a Housing Quality Standards (HQS) inspection of the new unit. The field representative will instruct the family on how to proceed with the relocation after the inspection has been conducted.

## **B. Notice to Vacate**

A family must notify their current owner when they plan to leave their unit in accordance with the terms of their lease. They are required to submit a Notice to Vacate to their owner and THDA with a term of at least thirty (30) days (a longer term may be necessary to comply with the lease). The Notice to Vacate must be submitted on the first day of a month with an ending date of the last day of the month or last day of the lease.\*

**Example:** A family wishes to relocate at the end of their lease term, and the lease requires a thirty-day notice to vacate the unit. The lease expires April 12<sup>th</sup>, and the family's annual recertification is due April 1<sup>st</sup>. The Notice to Vacate must be dated March 1<sup>st</sup> to comply with this policy. The family will vacate the unit on April 12<sup>th</sup>. THDA will continue HAP at the old unit through April 12<sup>th</sup>.

\*NOTE: The month of February includes less than 30 days. When a family wants to relocate at this time of the year, they should give their Notice to Vacate on the first of February. However, the family will not be able to vacate the unit until March 2<sup>nd</sup> to give the full 30 days of notice. THDA will continue HAP through March 2<sup>nd</sup>.

THDA will advise the family to wait to submit a Notice to Vacate until after an inspection on the new unit has been conducted and the unit has passed HQS or the owner has agreed to make any necessary repairs.

**Example:** A family submits a RTA for a new unit on March 12<sup>th</sup>, and the unit is inspected on March 22<sup>nd</sup>. The new unit fails HQS inspection, but the owner agrees to make necessary repairs within 30 days. The family may give a Notice to Vacate on April 1<sup>st</sup>. If the new unit passes inspection by April 22<sup>nd</sup>, the family may plan to move between April 22<sup>nd</sup> or after. THDA will continue paying HAP through April 30<sup>th</sup> to the old unit and may begin paying HAP on the new unit on April 22<sup>nd</sup>.

When a tenant submits a Notice to Vacate to his or her owner, THDA will mail a Notice of Relocation to the family and a Termination of HAP Contract to the current owner. The effective date of these documents is the ending day on the Notice to Vacate (usually the last day of the month). If the family changes their mind about relocating after submitting a Notice to Vacate, they must notify THDA of this change fifteen (15) days prior to the ending



date of the Notice to Vacate (usually the last day of the month). THDA then will continue HAP to the original owner as long as the lease is still in effect or a new lease is signed.

If the tenant gives less than fifteen (15) days notice to THDA that he or she plans to stay in the original unit or search for another unit, THDA will suspend HAP according to the Termination of HAP Contract sent to the owner. The tenant will be responsible for all rent payments after this time. Payments will resume after the tenant completes the relocation process as described above or after sufficient processing time has passed, which is a minimum of fifteen (15) days (if the tenant decides to stay in the original unit).

**Example:** A family submits a Notice to Vacate with an ending date of December 31<sup>st</sup>. The family notifies THDA on December 18<sup>th</sup> that they plan to stay in the original unit after all. The family is responsible for the first fifteen (15) days of January rent.

If the tenant notifies THDA that he or she plans to stay in the original unit after Notice to Vacate period has ended, the family will be responsible for at least fifteen (15) days of rent. The family's rent responsibility will be the greater of fifteen (15) days or the number of days between the end of the Notice to Vacate the date that the tenant notifies THDA of his intentions to remain in the unit.

**Example:** A family submits a Notice to Vacate with an ending date of December 31<sup>st</sup>. On January 28<sup>th</sup>, the family notifies THDA that they plan to remain in the original unit. The family is responsible for the full rent through January 28<sup>th</sup>.

### **C. Reasons for Relocation**

Several reasons exist for families to relocate to a new unit. The reasons for relocations are outlined below.

#### **1. The family is required to move by THDA.**

THDA will require a family to move for specific reasons. The agency exercises this option only when necessary to prevent unnecessary moves.

- a. There are occasions when THDA will terminate a HAP contract, usually for the purpose of ensuring the family's safety. When this occurs, the family must vacate the unit. If the family wishes to remain under the HCV program and continues to be eligible for the program, THDA will allow the family to relocate to another unit. The family should then follow the relocation procedures outlined above. The family may also choose to remain in the current unit and remove themselves from the HCV program. THDA will no longer be responsible for any HAP. Families are not restricted in the number of moves per year due to THDA-initiated action.
- b. A family may be required to move if the family composition changes and they no longer qualify for the size of their current unit. The family will be asked to relocate at the time of the annual recertification unless the family composition

violates HQS (i.e. the unit is not large enough to accommodate the family). If the unit is too large for the family, the payment standard is reduced to reflect this change. The family may remain in the unit, but they must pay for any difference in rent. The family may also choose to relocate to a smaller unit. If the unit is too small for the family, they must relocate to an appropriately sized unit. The field representative will instruct the family on the size of unit to locate. Rental subsidy will be terminated if the family refuses to move to a larger unit and/or the family refuses to accept a unit offered by THDA staff. HAP will continue for the original unit until an acceptable unit is located.

## **2. The family chooses to relocate.**

THDA informs all HCV participants that they should plan to remain in a unit for at least the initial term of a lease (usually 12 months). This information is also included in the Statement of Family Responsibility, and families are encouraged to plan a relocation to coincide with their lease expiration date. When a family chooses to relocate, they must observe the terms and conditions of their lease for termination of the tenancy.

The family must notify their local THDA field representative of their intentions to relocate. The family then must give a Notice to Vacate in writing to their owner. The Notice must adhere to lease and THDA regulations, and it must be dated on the first day of a month to be effective on the last day of the month or the lease termination date (see above for more information on this). The family should send a copy of the Notice to THDA as well. The family may not have an outstanding delinquent debt with THDA or another PHA. When this has been verified and a Notice to Vacate has been received, the field representative will recertify the family's continued eligibility for the HCV program.

If the family moves at any time other than the end of a lease term, they must complete a Mutual Recision of the lease signed by the head of household and the owner. This document should indicate a termination time of the lease that both the lessee and owner have agreed upon. A copy of the Mutual Recision should be given to the field representative. (If this date changes or the tenant decides to remain in the unit, both the owner and tenant must sign a Recision of the Mutual Recision.)

Any tenant who moves without following the relocation procedures as outlined above and/or does not remain in contact with his THDA field representative is responsible for his own rent. If a tenant moves without first notifying THDA, he may not be eligible for future assistance. Moving without notice to the owner is grounds for termination of rental assistance. The only exception to this policy is when a family must relocate due to an emergency situation and THDA staff are not available. This could occur over a weekend or holiday. An emergency situation is defined as a threat to the welfare and safety of a family, such as a fire or gas leak or a verified case of abuse of violence. Verification from the

appropriate authority, including a law enforcement agency, owner or fire department, may be required.

If a family fails to locate an acceptable new unit, THDA will continue HAP for the original unit as long as it continues to meet program requirements.

Families are only allowed one tenant-initiated move in any 12-month period. A family may request an exception to this policy to the field office manager due to extenuating circumstances. The director must give final approval for allowing more than one tenant-initiated move in twelve months.

**3. The owner terminates the lease and/or HAP contract.**

If an owner terminates the lease and/or HAP contract, he must observe the terms and conditions of the lease and contract for the termination of tenancy. No subsidy payment will be made after the effective date of the termination. A reason for the termination of lease or HAP contract is the sale of the property to another owner. If the family continues to be eligible for the HCV program and does not have any delinquent balances for past debts, the family may relocate to another unit with continued assistance.

If the owner has obtained a court judgment to evict the tenant, THDA will terminate the family's rental assistance. The tenant will have fifteen (15) days to appeal the termination. In special circumstances, the director may allow the family to relocate with continued assistance.

Families are not limited in the number of moves per 12-month period due to owner-initiated actions as long as the family remains in compliance with HCV rules and regulations.

**D. Relocation Processing**

Relocation processing depends based upon the timing of the relocation and the term of the lease. Below are procedures for handling relocations in various situations. In all cases, HUD requires that THDA maintain a current annual recertification on all tenants. Regardless of whether a tenant plans to relocate at the time of an annual recertification or not, THDA staff must perform all recertification activities with the possible exception of the unit inspection. If the family is in between units when the annual recertification is due, then the field representative should enter an Annual Reexamination Searching transaction into Housing Pro on the last day before a transaction prohibit is placed on Housing Pro prior to a monthly payment processing time. When the tenant has relocated successfully, the field representative will then enter a Change of Unit transaction into Housing Pro. Late annual recertification transactions are unacceptable.

**1. Tenants with leases with a revolving month-to-month term following the initial 12-month term (i.e. THDA model lease)**

**a. Relocation occurs at annual recertification during initial lease term**

The family may give a Notice to Vacate on the first of the month prior to the annual recertification date (to end on the last day of the lease term). THDA will pay HAP through the end of the lease term. If the family chooses to stay in the unit past the end of the initial lease term, they will begin a revolving month-to-month lease term and will be responsible for any rent payments. They must rescind their Notice to Vacate in order to stay in the unit and issue a new Notice to Vacate when appropriate.

**Process:** The tenant contacts his field representative and requests to relocate. The family locates a new unit and submits a RTA. THDA schedules and conducts a HQS inspection for the new unit and gives the new owner a repair list. If the owner agrees to make all necessary repairs, the family submits a Notice to Vacate (according to outlined terms above).

**Example:** A family's annual recertification date is November 1<sup>st</sup>, and their lease expiration date is November 14<sup>th</sup>. The Notice to Vacate is dated October 1<sup>st</sup> to end on November 14<sup>th</sup>.

**b. Relocation occurs at a time other than the annual recertification but after the initial term of the lease**

In this case, a family may give a 30-day notice at any time as long as the Notice to Vacate meets lease requirements and begins on the first day of a month and ends on the last day of a month. THDA will pay HAP through the end of the Notice to Vacate term.

**Process:** The tenant contacts his field representative and requests to relocate. The family locates a new unit and submits a RTA. THDA schedules and conducts a HQS inspection for the new unit and gives the new owner a repair list. If the owner agrees to make all necessary repairs, the family submits a Notice to Vacate (according to outlined terms above). After the field representative receives the Notice to Vacate, a Notice of Relocation is mailed to the tenant and a Termination of HAP Contract is mailed to the owner. Both documents have an effective date that corresponds to the end date of the Notice to Vacate.

**Example:** A family submits a RTA on March 5<sup>th</sup>. The unit is inspected on March 15<sup>th</sup>, and it fails HQS. The owner agrees to make all necessary repairs. The family dates their Notice to Vacate on April 1<sup>st</sup> to end April 30<sup>th</sup>. The unit passes inspection on April 13<sup>th</sup>. They may move into their new unit on April 17<sup>th</sup> (THDA will pay 14 days of overlapping HAP).

**c. Relocation occurs during the initial term of the lease**

The family must secure a Mutual Recision of the lease with the owner and must receive approval from THDA to continue rental assistance. The lease and HAP will terminate on the effective date of the Mutual Recision.

**2. Leases without a revolving month-to-month term at end of initial term (i.e. leases at large apartment complexes)**

When a lease does not include a revolving month-to-month term at the end of the initial 12-month term, the tenant must sign a new lease each year. For that reason, the tenant must secure a Mutual Recision of the lease if he decides to move at any time other than the annual recertification. The tenant must submit a Notice to Vacate in accordance with the terms of the lease. It must be given on the first of a month at least thirty (30) days prior to the lease expiration date.

**a. Relocation occurs at annual recertification**

**Process:** The family contacts their field representative and requests to relocate. The field representative conducts a recertification and instructs the family to search for a new unit if they are still eligible for the HCV program. The family is advised to follow the terms of their lease in order to provide proper notice to the owner of vacating the unit. If the family does not abide by the terms set forth in the lease, they must secure a Mutual Recision of the lease from the owner in order to proceed with relocation. The family locates a new unit and submits a RTA. THDA schedules and conducts a HQS inspection for the new unit and gives the new owner a repair list. If the owner agrees to make all necessary repairs, the family submits a Notice to Vacate (dated the first of the month prior to the recertification date to end on the lease termination date unless the lease requires a longer notice period). After the field representative receives the Notice to Vacate, a Notice of Relocation is mailed to the tenant and a Termination of HAP Contract is mailed to the owner. Both documents have an effective date that corresponds to the end date of the Notice to Vacate.

**Example:** A family's annual recertification date is September 1<sup>st</sup>, and their lease termination date is September 3<sup>rd</sup>. The family submits a RTA for a new unit on July 12<sup>th</sup>, and the new unit is inspected on July 22<sup>nd</sup>. The unit fails the inspection, but the owner agrees to make all necessary repairs. The family submits their Notice to Vacate on August 1<sup>st</sup> to end on September 3<sup>rd</sup>. The unit passes HQS inspection on August 20<sup>th</sup>. The family may make the lease on the new unit effective on August 21<sup>st</sup>. THDA will pay overlapping HAP from August 21<sup>st</sup> through September 3<sup>rd</sup>.

**b. Relocation occurs at a time other than annual recertification**

**Process:** The family contacts their field representative and requests to relocate. The field representative conducts a recertification and instructs the family to search for a new unit if they are still eligible for the HCV program. The tenant enters into a Mutual Recision of the lease with the owner. The field representative mails the Notice of Relocation to the participant and the Termination of HAP Contract to the owner. Both

documents have an effective date that corresponds to the last day of the mutual recision term. If a family wants to relocate during the initial term of the lease, they must receive approval for the relocation from the director due to extenuating circumstances since THDA's policy is to allow one tenant-initiated move in twelve (12) months.

## **E. Overlapping HAP**

Depending on when a tenant submits his Notice to Vacate, THDA may pay overlapping HAP. HUD permits overlapping HAP during the month that a participant moves from one unit to another to help facilitate the relocation process. When the last HAP for the original unit and the HAP for the new unit fall in the same month, this is not considered duplicative assistance. If the owner is the same for both units, no overlapping HAP will be paid. THDA's policy is to pay no more than fourteen (14) days of overlapping HAP due to financial constraints. The purpose of paying overlapping HAP is to make moving more feasible for tenants given leasing terms. The current owner is always paid through the end date of the Notice to Vacate (and the initial lease term) as long as he remains compliant with the HAP contract unless he agrees to a Mutual Recision of the lease. Detailed examples are below of possible situations.

### **1. Tenant requests to relocate at annual recertification during initial lease term**

A tenant notifies THDA during his annual recertification in April that he plans to relocate. His annual recertification date is August 1<sup>st</sup>, and his lease termination date is August 16<sup>th</sup>. The field representative advises him that he is not eligible to relocate with continued HAP until August 2<sup>nd</sup>, fourteen days prior to his lease termination date. He is also advised that he needs to submit the Notice to Vacate with a beginning date of July 1<sup>st</sup>.

The tenant submits a RTA on June 5<sup>th</sup> for a new unit. The new unit is inspected on June 15<sup>th</sup>, and it fails HQS. The owner agrees to make necessary repairs, and the tenant submits a Notice to Vacate on July 1<sup>st</sup> with an effective date of August 16<sup>th</sup>. The unit passes HQS on July 14<sup>th</sup>, but the new HAP contract will not be effective until August 2<sup>nd</sup>. If the tenant chooses to move in before this date, he will be responsible for all rent at the new unit through August 1<sup>st</sup>.

The Termination of HAP for the old unit is effective August 16<sup>th</sup>, the lease termination date. Overlapping HAP may be paid from August 2<sup>nd</sup> to August 15<sup>th</sup>, fourteen (14) days.

### **2. Tenant requests to relocate after initial term and has a month-to-month revolving lease term**

A tenant requests to relocate on March 5<sup>th</sup>. The field representative instructs the tenant to locate a new unit. The tenant submits a RTA on June 10<sup>th</sup>, and the inspection is scheduled for June 20<sup>th</sup>. The unit fails HQS, but the owner agrees to make all necessary repairs. The tenant submits a Notice to Vacate on July 1<sup>st</sup> with an ending date of July 31<sup>st</sup>. The unit passes HQS on July 19<sup>th</sup>. The new HAP

Contract is effective July 19<sup>th</sup>, and the Termination of HAP contract for the old unit is effective July 31<sup>st</sup>. THDA will pay overlapping HAP from July 19<sup>th</sup> to July 31<sup>st</sup>.

In this case, the tenant may choose to give his Notice to Vacate on August 1<sup>st</sup> and ending on August 31<sup>st</sup>. The new HAP Contract will be effective August 18<sup>th</sup>. If he moves prior to August 18<sup>th</sup>, he will be responsible for the entire rent payment for the new unit until that date.

#### **F. Overlapping Utility Assistance Payments**

THDA will not make an overlapping utility assistance payment under any circumstance. A family who relocates must coordinate with utility companies to disconnect their utilities and start new service properly. If the family receives a UAP that they are not entitled to receive, they should reimburse THDA immediately. In some instances, a family may qualify for UAP in one unit and not for a new unit. If the UAP overpayment is less than \$50.00, the family must reimburse THDA for the full amount within sixty (60) days to remain in good standing. If the UAP overpayment is \$50.00 or more, the family may elect to enter into a repayment agreement.

#### **G. Agency Refusal to Relocate**

THDA may refuse to allow a family to relocate with continued rental assistance for the following reasons:

- The family owes money to THDA or another PHA for any type of claim or has a delinquent balance on a repayment agreement;
- The family has committed verified fraud against the HCV program, another housing program or another benefit program (such as TANF or Social Security);
- The family does not secure a Mutual Recision of the lease and wants to move in violation of lease terms;
- There is no adult member (aged 18 or older) who may sign the lease and serve as head of household;
- The family has failed to cooperate in the recertification process;
- A member of the household has a conflict of interest; or
- The family has violated HCV program obligations as defined in the Family Obligations and Responsibilities.

Families must secure a Mutual Recision of the lease and director's approval to relocate during the initial term of a lease. Families are required to pay back any claims made on their behalf in error by THDA. Failure to repay any amount owed is grounds for termination from the HCV program.

A written notice of the refusal to all a relocation is sent to the family stating the reason(s) for the denial and informing them of the right to request an informal hearing. THDA also will

make a determination of whether assistance will continue or be terminated under these circumstances.

## **H. Consideration for Split Households**

When a household is divided into more than one household (i.e. divorce or legal separation), THDA will continue rental assistance to one household only. The family still only qualifies for one voucher. The divorce decree or separation papers should state which household retains the voucher or the parties involved may determine on their own which household should retain the subsidy.

If the parties cannot agree on who should keep the voucher, THDA staff make the determination based on the following factors (assuming that the matter is not resolved by court action):

- Which household has the dependent children;
- Who holds the voucher and/or is listed as head of household;
- Who remains in the assisted unit;
- Whether domestic violence is involved; or
- Which household meets the definition of a family or eligible single person.

## **I. Termination for Damages or Unpaid Rent**

If THDA determines during the relocation process or after relocation to a new unit that a tenant has left excessive damages to the previous unit or has unpaid rent to the previous owner, THDA may terminate rental assistance. If a tenant has damaged a unit or has failed to pay rent, the owner must notify THDA within fifteen (15) days of the move-out date. The owner also must provide sufficient verification of the damages including photographs and/or cost estimates and receipts for repairs. The family may avoid termination of assistance by repaying the owner for unpaid rent or damages or entering into a repayment agreement with the owner.

## **II. PORTABILITY**

A family may continue to receive HCV rental assistance in areas outside of THDA's jurisdiction through a process called portability. Participants in the HCV program in other areas may also exercise their right to portability and receive assistance in THDA's jurisdiction. A HCV participant family may port to any housing authority that administers the HCV program according to the guidelines set forth below. Each housing authority has the ability to develop policies on accepting portables, so circumstances vary from one housing authority to another. The following is the policy of THDA in regard to portability issues. Below are also procedures for THDA as both the originating (initial) PHA and the receiving PHA.



## A. THDA as Receiving PHA

When a HCV participant family from another jurisdiction wants to move to a location within THDA's jurisdiction, their original housing authority notifies THDA. A staff member from THDA will notify the originating housing authority if THDA plans to administer the voucher and bill or absorb the tenant into THDA's HCV program. The originating housing authority will decide at that point if they will approve the portability move or not. See the process below for more detailed instructions on porting families into THDA's jurisdiction.

THDA bases its decision on whether to absorb a HCV tenant or bill his originating housing authority on where the tenant is moving from and the availability of adequate funds. If the tenant is coming from another housing authority in Tennessee, then THDA likely will absorb the tenant into its own program. The exception to this policy is when a tenant comes from a housing authority in Tennessee that is not consistently absorbing THDA tenants when they wish to port to that housing authority's jurisdiction. THDA will administer the voucher for all other HCV participants and will bill the originating housing authority. This policy will remain in effect until further notice, and it is based on the lack of available funds. THDA may consider absorbing vouchers due to extraordinary circumstances.

When THDA administers a voucher, the originating PHA is billed for HAP, UAP and 80 percent of the originating PHA's ongoing administrative fee. THDA is responsible for completing an annual reexamination along with any interim reexaminations for every port-in tenant. THDA must send updated portability Part II paperwork and a new 50058 to the originating PHA for every annual and interim. Copies of all portability paperwork should be faxed to THDA's portability coordinator.

When THDA absorbs a voucher, THDA treats the family like any other THDA HCV participant family.

The originating PHA issues the family a voucher. After THDA has determined the eligibility of the family, THDA issues a new voucher to the family. The family may request that THDA issue a voucher for a larger unit or with an extended search period. Decisions on these requests will be made in accordance with existing THDA policy. THDA may, at its own discretion, issue a voucher with terms different those of the voucher from the originating PHA. If the original voucher has expired before the family arrives, THDA will instruct the family to contact the originating PHA for a new voucher.

A portability family's search may not be delayed for background checks or other administrative processes. The search may only be delayed to determine the eligibility of an applicant. If THDA determines that the family is ineligible or has violated their obligations under the HCV program after a lease has begun, the family's assistance may be terminated at that time.

**Process:** A PHA notifies THDA that they have a family who wants to relocate to a community within THDA's jurisdiction. The PHA is given the contact information for the appropriate field office, and the field office staff verify that THDA is the only PHA to

service that community. If another PHA services the HCV program in that community, the THDA staff member should refer the sending PHA to the most appropriate PHA to handle the portability.

The originating PHA sends THDA Part I of the HUD portability paperwork. THDA determines if it will absorb the family or administer the voucher and bill the originating PHA (see above for guidelines on absorbing), and the field representative notifies the PHA of the decision and the payment standard for the community. When the originating PHA determines that it will allow the portability move (i.e. they will accept the billing if THDA does not plan to absorb), the field representative contacts the family to schedule a briefing. The field representative enters the family's information into Housing Pro. The field representative conducts the briefing, requests criminal background checks on all adult household members and instructs the family to look for a unit that meets the condition of the voucher that the originating PHA has issued to the family.

The family submits a RTA for an appropriate unit, and THDA conducts an HQS inspection. Within ten (10) working days from the date a HAP Contract is executed, the field representative faxes and mails the portability Part II paperwork to the initial PHA. The staff member also enters the port-in transaction into Housing Pro and ensures that HAP is paid correctly.

**Example—Administering a Voucher:** The Housing Authority of Marietta, Georgia contacts THDA and says that they have a family who wants to relocate to Clarksville. They forward the portability Part I paperwork to the Erin field office. An Erin staff member notifies Marietta that THDA will not be absorbing the voucher and gives the PHA the payment standard for Montgomery County. Marietta PHA agrees to accept the billing. An Erin field representative schedules a briefing for the family and sends them to look for a unit. The family locates a unit and submits a RTA, and an Erin staff member conducts the inspection. It passes HQS, and the family signs a lease. A HAP Contract is executed with the owner. Within 10 working days, the Erin field representative returns the portability Part II paperwork to Marietta PHA and faxes copies of all portability paperwork to the THDA portability coordinator. The Erin field representative conducts all necessary reexaminations and forwards the paperwork and 50058 to Marietta PHA and the THDA portability coordinator. The portability coordinator will monitor accounts receivables from Marietta PHA for the billing.

**Example—Absorbing a Voucher:** Dickson, TN PHA notifies THDA that they have a family who wants to port to Sumner County. The Middle Tennessee field office receives the portability Part I paperwork. A field representative sends back the portability Part II paperwork indicating that THDA will absorb the family into its program. The field representative enters the family's information into Housing Pro and follows normal procedures. Copies of all portability paperwork are faxed to the THDA portability coordinator. No further contact with Dickson PHA is necessary after the portability Part II paperwork has been sent.

## **B. Family Eligibility to Move under Portability**

A family may only use a rental assistance voucher to lease a unit where the family is income eligible at admission to the receiving PHA program. An applicant family must be income eligible for admission in the area where the family initially leases a unit. If the initial lease up will be in the receiving PHA's area, the applicable limits will be the receiving PHA's extremely low or very low income limit. For continued assistance in the same program, income eligibility is not re-determined.

A family must participate in the originating PHA's HCV program for twelve (12) months before becoming eligible for portability if neither the head of household or spouse had a legal residence in the area at the time they applied for admission to the program. If the county in which the family was living at the time they submitted their pre-application was not the same as the county for which the family was called in off the waiting list, then the family must participate in the HCV program at their initial PHA before becoming eligible for portability. If both the initial PHA and the receiving PHA agree, however, the family may lease a unit under portability sooner than twelve (12) months.

Tenants must follow THDA's policies on vacating a unit and providing proper notice as required in the lease to be eligible to port to another PHA.

## **C. Moving out of THDA's Jurisdiction under Portability**

When a THDA HCV participant family wants to relocate to a community outside of THDA's jurisdiction, THDA staff will assist the family in this process. First, the family's field representative identifies the PHA that services the HCV program in that community. Then, the THDA staff member contacts the receiving PHA to notify them that one of THDA's tenants wishes to port to that community. The receiving PHA will give the THDA field representative the payment standard for the area and the contact information that the family will need to communicate with the receiving PHA. THDA faxes and mails the portability Part I paperwork to the receiving PHA and asks the other PHA if they plan to administer or absorb the voucher. THDA will make a determination on whether the family may port to the community or not based on the receiving PHA's decision to administer or absorb.

HUD has given individual PHAs the ability to decide whether they will administer or absorb portability vouchers. Every PHA is different and has different policies on portability. Currently, many PHAs are absorbing vouchers on a very limited basis. Most PHAs in Tennessee will absorb THDA tenants; however, PHAs change their policies on portability frequently based on budgetary concerns.

If the receiving PHA decides to administer a voucher, THDA may or may not allow the family to port to that PHA. If the payment standard for the receiving PHA is equal to or less than the family's current THDA payment standard, THDA will allow the family to port out. If the payment standard is higher than the family's current payment standard, the family will not be allowed to port to that community. The director may make an exception to this policy to provide a reasonable accommodation for a person with a disability. All decisions are

made with the assumption that the family will have a unit with the same number of bedrooms in the new community. If the receiving PHA issues the family a voucher for a larger unit, then THDA may not accept the billing.

When a PHA administers a THDA voucher, they bill THDA for HAP, UAP and 80 percent of the THDA's ongoing administrative fee. The receiving PHA is responsible for completing an annual reexamination along with any interim reexaminations for every port-in tenant. The receiving PHA must send updated portability Part II paperwork and a new 50058 to THDA for every annual and interim. All portability paperwork should be sent to THDA's portability coordinator. The portability coordinator ensures that payments are processed correctly and that payment updates are entered into Housing Pro.

When another PHA absorbs a voucher, they treat the family like any other HCV participant family.

THDA issues the family a voucher. After the receiving PHA has determined the eligibility of the family, the receiving PHA issues a new voucher to the family. The receiving PHA may change the size of the unit and/or extend the search terms of the voucher. If the voucher has expired before the family arrives at the receiving PHA, the family must contact THDA for a voucher extension. THDA will notify the receiving PHA of its policies regarding payment of port-out billings, including its determination of when it will allow families to port to PHAs that are not absorbing tenants.

The receiving PHA may not delay a family's search for a unit for any administrative issues including performing a criminal background check. Delays are only permissible if the receiving PHA must verify eligibility for an applicant.

**Process:** A THDA field representative notifies another PHA that there is a THDA HCV participant family who wants to relocate to a community within the PHA's jurisdiction. The PHA gives THDA the appropriate contact information for the family. The field representative asks the receiving PHA for their payment standard and asks if the PHA will administer or absorb the voucher. If the receiving PHA plans to absorb the voucher, then the field representative continues the process. If the receiving PHA plans to administer the voucher, then a determination will be made of whether the family may port to this community or not (see above for criteria to make this decision). If THDA restricts the family from porting to this community, then the family must remain in their current unit, seek another community or choose to remove themselves from the HCV program.

If it appears that the family will be able to port out, the THDA field representative sends Part I of the HUD portability paperwork to the receiving PHA. The field representative verifies that the family is eligible to port out (see requirements in previous section) and issues the family a voucher with a search term of sixty (60) days. The family arranges to meet with the receiving PHA and searches for an appropriate unit.

The family submits a RTA for an appropriate unit, and the receiving PHA conducts an HQS inspection. Within ten (10) working days from the date a HAP Contract is executed, the

receiving PHA sends the portability Part II paperwork to THDA. All portability paperwork should be forwarded to THDA's portability coordinator. The portability coordinator will enter a port out transaction into Housing Pro and ensure that payments are being made to the receiving PHA. The portability coordinator makes any updates to the billing amount and corresponds with the receiving PHA when necessary about billing issues.

**Example—Administering a Voucher:** A tenant calls his field representative saying that his family wants to move to Huntsville, Alabama. They want to move at the expiration of their lease term, and the field representative verifies that the family is eligible for portability. The field representative contacts the Huntsville HA, notifying them that this family wants to port to Huntsville. The receiving PHA states that they are not absorbing any vouchers at this time. Since the payment standard is less than the family's current payment standard, the field representative instructs the family to make contact with Huntsville HA. The field representative issues the family a voucher and sends Huntsville HA the portability Part I paperwork. Within of ten (10) days after the HAP Contract is signed, the receiving PHA sends THDA the portability Part II paperwork. THDA's portability coordinator sets the receiving PHA up as an accounting contact and ensures that payments will be made properly. The portability coordinator enters all payment updates into Housing Pro and arranges for payment adjustments as necessary. This process continues until Huntsville HA absorbs the family, the family is removed from the HCV program or the family moves to another community (including back to THDA's jurisdiction).

**Example—Absorbing a Voucher:** A family contacts their THDA field representative and says that they want to move to New York, New York. They want to move at the expiration of their lease term. The field representative contacts the New York HA and asks if they will consider absorbing the family. The receiving PHA tells THDA that they will absorb the family. The family is eligible for the port out. The THDA field representative issues the family a voucher and gives them the contact information for New York PHA. The field representative faxes and sends the portability Part I paperwork to New York PHA. The receiving PHA sends back the portability Part II paperwork. All paperwork is forwarded to THDA's portability coordinator who then enters a port out transaction into Housing Pro. The family is now a part of New York HA's HCV program.

#### **D. Financial Requirements**

The originating and receiving housing authorities must comply with the financial procedures set forth by HUD, including the use of HUD-required billing forms. Both housing authorities must comply with deadlines for billing and submitting paperwork.

## Chapter 13

### PROGRAM INTEGRITY, PREVENTING ERRORS AND ABUSE, REMEDIES FOR ABUSE

#### I. GENERAL POLICY

THDA is committed to ensuring that subsidy funds are spent in accordance with HUD requirements. THDA has designed policies and procedures to prevent, detect, investigate and resolve instances of program abuse or fraud, and to take corrective action when errors or program abuse is found.

#### II. PREVENTING ERRORS AND PROGRAM ABUSE

THDA anticipates that the vast majority of families, owners and THDA employees intend to and will comply with program requirements and make reasonable efforts to avoid errors. For purposes of this chapter the term *error* refers to an unintentional error or omission. Program abuse or fraud refers to a single act or pattern of actions that constitute a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

To ensure that the THDA's HCV program is administered effectively and according to the highest ethical and legal standards, a variety of techniques will be employed to ensure that both errors and intentional program abuse are rare, including the following:

1. Program compliance and integrity issues are reviewed during the voucher briefing sessions.
2. Each applicant and participant is given the publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a family must avoid and the penalties for program abuse.
3. Each applicant and participant is required to sign a tenant certification that includes a warning statement about the penalties for fraud (as described in the False Statement Act, U.S.C. 1001 and 1010).
4. Required forms are reviewed with the family by THDA staff before requesting family member signatures.
5. First-time owners (or their agents) are offered an opportunity to participate in a briefing session on HAP Contract requirements, and all are given a Landlord Booklet that explains the program and the HAP Contract requirements.
6. THDA staff is offered annual training on program rules and the organization's standards of conduct and ethics.

### **III. DETECTING ERRORS AND PROGRAM ABUSE**

In addition to taking steps to prevent errors and program abuse, THDA will use a variety of activities to detect errors and program abuse.

#### **A. Quality Control and Analysis of Data**

Under the Section 8 Management Assessment Program (SEMAP), HUD requires THDA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance [24 CFR, Part 985]. (See Chapter 1 for additional information about SEMAP requirements).

In addition to the SEMAP quality control requirements, THDA will employ a variety of methods to detect errors and program abuse. Some of these methods are outlined below.

1. Available sources of up-front income verification are routinely checked during the recertification process to compare with family-provided information.
2. At each annual reexamination, current information provided by the family will be compared to information provided at the last annual reexamination to identify inconsistencies and incomplete information.
3. The income reported by the family will be compared to reported expenditures on the Personal Declaration to detect possible unreported income.

#### **B. Independent Audits and HUD Monitoring**

THDA will use the results reported in any independent audit or HUD monitoring review to identify potential program abuses as well as to assess the effectiveness of error detection and abuse prevention efforts.

### **IV. INVESTIGATING ERRORS AND PROGRAM ABUSE**

THDA will review all referrals, specific allegations, complaints and tips from any source including other agencies, companies and individuals, to determine if they warrant investigation. To be considered a valid claim, the allegation must contain at least one independently-verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

Inconsistent information identified through file reviews, and the verification process will also be investigated.

## **A. Analysis and Findings**

When determining whether program abuse or fraud has occurred, decisions will be based on a preponderance of the evidence collected during the investigation. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses but by the greater weight of all evidence.

For each investigation, the following will be considered:

- whether an error or program abuse has occurred;
- whether any amount of money is owed THDA; and
- what corrective measures or penalties will be assessed.

## **B. Consideration of Remedies**

The remedy for any case of error or program abuse will be considered in the manner outlined below.

1. In the case of family-caused errors or program abuse, THDA will take the following into consideration:
  - the seriousness of the offense and the extent of participation or culpability of individual family members;
  - any special circumstances surrounding the case;
  - any mitigating circumstances related to the disability of a family member; and
  - the effects of a particular remedy on family members who were not involved in the offense.
2. In the case of owner-caused errors or program abuse, THDA will take into consideration (1) the seriousness of the offense, (2) the length of time since the violation has occurred, and (3) the effects of a particular remedy on family members who were not involved in the offense.

## **V. CORRECTIVE MEASURES AND PENALTIES/REPAYMENT AGREEMENTS**

### **A. Subsidy Under or Overpayments**

A subsidy under- or overpayment includes the following:

- an incorrect housing assistance payment to the owner
- an incorrect family share established for the family
- an incorrect utility reimbursement to a family



## **1. Corrections**

Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, THDA must promptly correct the HAP, family share and any utility reimbursement prospectively.

- a. Increases in the family share will be implemented after the family has received thirty (30) days notice when the correction is caused by a THDA error. Increases in family share will be implemented at the beginning of the next month when the correction is due to a tenant-caused error or program abuse/fraud.
- b. Any decreases in family share will become effective the first of the month following the discovery of the error.

## **2. Reimbursement of Overpayment**

Whether the family or owner is required to reimburse THDA or THDA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

### **B. Family-Caused Errors and Program Abuse**

Family obligations and general administrative requirements for participating in the program are discussed throughout this plan. This section deals specifically with errors and program abuse by family members.

An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows THDA to use incorrect information provided by a third party.

#### **Penalties for Program Abuse**

In the case of program abuse caused by a family THDA may, at its discretion, impose any of the following remedies:

- THDA will require the family to repay excess subsidy amounts (repayment agreement).
- THDA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 3 (for applicants) and Chapter 11 (for participants).
- THDA may deny or terminate the family's assistance following the policies set forth in Chapter 3 and Chapter 11 respectively.

- THDA may refer the family for state or federal criminal prosecution.

**1. Family Reimbursement to PHA/ Repayment Agreement & Program Termination [HCV GB pp. 22-12 to 22-13]**

In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. THDA may, but is not required to, offer the family a repayment agreement instead of a program termination. If the family fails to repay the excess subsidy, THDA will terminate the family's assistance in accordance with the policies in Chapter 11. It is not the policy of THDA to provide rental assistance to a family who owes a debt to THDA or is not current under a plan of repayment when a repayment agreement is offered. All repayments agreements are entered into at the discretion of THDA. The decision to enter into a repayment agreement depends upon the amount of the debt and the circumstances surrounding the debt. The following will be taken into consideration when determining whether to enter into a plan of repayment in lieu of termination:

- The amount of the debt—Debts in excess of \$5,000 will result in termination of rental assistance.
- Family history—A family history or pattern of failing to report income (at least three occurrences) may result in termination.

The following procedures will be followed regarding the establishment of a repayment agreement:

- a. THDA will request full payment of a debt from all participants before a plan of repayment is established. A plan of repayment will be established only when a participant is unable to pay the entire debt in full.
- b. A participant with an existing repayment agreement must pay the balance due in full before entering into an additional repayment agreement. A participant may not add debt to an existing repayment agreement nor enter into a second repayment agreement before fully reimbursing the agency for any existing repayment agreement.
- c. When a repayment agreement is executed, a minimum downpayment of the higher of 10% of the total debt or one month's payment is required at the time the repayment agreement is signed. Dependant upon the circumstances of the case or family payment history in prior agreements, THDA may request a larger downpayment, not to exceed one quarter of the total debt as a downpayment.
- d. The monthly payment is based on the following formula:

- If the debt is \$1.00 to \$299.00 before the downpayment, the monthly payment is twelve (12) equal payments less the downpayment.
  - If the debt is \$300.00 to \$699.00 before the downpayment, the monthly payment is twenty-four (24) equal payments less the downpayment.
  - If the debt is \$700.00 or greater before the downpayment, the monthly payment must be at least \$25.00. Debts greater than \$700.00 must be paid in full within sixty (60) months less the downpayment.
- e. In all cases, the first payment is due when the agreement is signed. Monthly payments are due to THDA by the fifth day of each month. Monthly payments to THDA must be in the form of a money order or cashiers check. Cash payments and personal checks are prohibited.
  - f. The family will remain in good standing with THDA as long as all payments are received when due. Failure to comply with a repayment agreement will result in termination of assistance. The agency reserves the right to pursue further legal remedy for the unpaid balance.
  - g. All debts apply to all *adult* members of the household. Any person who is a member of a household with a debt must satisfy any outstanding debt to qualify for assistance or continue receiving assistance unless a court order assigns the debt to a particular person.
  - h. A request from a participant for a voucher for the purpose of relocation will be denied if the participant has an outstanding debt to THDA or another PHA. The debt must be paid in full; or if a plan of repayment exists, the balance must be current.
  - i. THDA will maintain a current listing of all active and inactive participants who owe a debt. The listing will be utilized by all field offices to determine applicant eligibility and repayment account balances.
  - j. Participants must remain current in the plan of repayment. If a participant fails to make one (1) monthly payment, they are considered in default of the agreement, and the rental assistance may be terminated. The following procedures apply to defaults:
  - k. When a participant misses their first payment under the agreement, a late notification letter is sent reminding them of the repayment policy and advising that rental assistance will be terminated unless the payment(s) is made current within thirty (30) days.

- l. If the participant does not bring the debt current within thirty (30) days, rental assistance is terminated.
- m. If the family contacts THDA prior to the end of the 30-day late period and requests a suspension of their payments, THDA will consider allowing a suspension for a period not to exceed sixty (60) days if the family is experiencing a hardship due to job loss, benefit loss or other sudden reduction in income. In this case, the repayment period will be extended by the time period of the suspension.

### **Applicant Debts**

Repayment agreements are not signed with applicants who currently have an outstanding debt to THDA or another PHA. Any debts owed to THDA or another PHA must be paid in full before the family is admitted.

### **Knowledge of a Participant 's Debt to Another PHA After Issuance**

If THDA has admitted a family to the voucher program and subsequently learns that the family owes a debt to another PHA, the family's assistance may be terminated. If THDA is made aware of an outstanding debt to another PHA, and the family has failed to disclose this information, their assistance will be terminated.

## **2. THDA Reimbursement to Family [HCV GB p. 22-12]**

THDA will not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

Any of the following will be considered evidence of family program abuse:

- Payment to the owner in excess of amounts authorized by the THDA for rent, security deposit and additional services
- Offering bribes or illegal gratuities to the THDA Board of Directors, employees, contractors or other THDA representatives
- Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to THDA on the family's behalf
- Use of a false name or the use of falsified, forged or altered documents
- Intentional misreporting of family information or circumstances (e.g. income, family composition)

- Omitted facts that were obviously known by a family member (e.g., not reporting employment income)
- Admission of program abuse by an adult family member

THDA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

### **C. Owner-Caused Error or Program Abuse**

Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

#### **1. Owner Reimbursement to the PHA**

In all cases of overpayment of subsidy caused by the owner, the owner must repay any excess subsidy received. If it is determined that the owner received Housing Assistance Payments that they are not entitled to, THDA may reclaim the amounts from future Housing Assistance Payments owed the owner for any units under contract.

#### **2. Prohibited Owner Actions**

An owner participating in the HCV program must not:

- Make any false statement to the PHA [Title 18 U.S.C. Section 1001]; or
- Commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program [24 CFR 982.453(a)(3)] including the list below. Any of the following will be considered evidence of owner program abuse:
  - Charging the family rent above or below the amount specified by THDA
  - Charging a security deposit other than that specified in the family's lease
  - Charging the family for services that are provided to unassisted tenants at no extra charge
  - Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit

- Knowingly accepting incorrect or excess housing assistance payments
- Offering bribes or illegal gratuities to the THDA Board of Directors, employees, contractors or other THDA representatives
- Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA
- Residing in the unit with an assisted family

### **3. Remedies and Penalties**

When THDA determines that the owner has committed program abuse, THDA may take any of the following actions:

- Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 16;
- Terminate the HAP contract (See Chapter 13);
- Bar the owner from future participation in any THDA programs; and
- Refer the case to state or federal officials for criminal prosecution.

## **D. Notice and Appeals**

THDA will inform the relevant party in writing of any findings and remedies within fifteen (15) days of the conclusion of an investigation of program abuse or error. The notice will include the following:

- a description of the error or program abuse,
- the remedies to be employed and
- the family's right to appeal the results through the informal review or hearing process, if applicable.

## **E. THDA Errors**

The responsibilities and expectations of THDA's staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct are contained in THDA's personnel policy.

THDA-caused incorrect subsidy determinations include the following:

- failing to correctly apply HCV rules regarding family composition, income, assets and expenses and
- assigning the incorrect voucher size to a family, and (3) errors in calculation.

**Repayment to THDA**

Neither a family nor an owner is required to repay an overpayment of subsidy if the error is caused by THDA staff [HCV GB. 22-12].

**Reimbursement to Family or Owner**

THDA will reimburse a family for any underpayment of subsidy when the underpayment is the result of staff-caused error. Funds for this reimbursement must come from THDA's administrative fee reserves [HCV GB p. 22-12].

**F. Criminal Prosecution**

When THDA determines that program abuse by an owner, family, or THDA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, the matter is referred to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG).

Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

**G. Fraud and Program Abuse Recoveries**

THDA may retain a portion of program fraud losses that are recovered from a family or owner through litigation, court order, or a repayment agreement [24 CFR 982.163].

THDA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. 24 CFR 792.202 permits THDA to retain the greater of the following:

- fifty percent of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement, or
- reasonable and necessary costs that THDA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR 982.555.

If HUD incurs costs on behalf of THDA related to the collection, these costs must be deducted from the amount retained by THDA.

## **Chapter 14**

### **OWNER INFORMATION, POLICIES AND RESPONSIBILITIES [24 CFR 982.54 (d)(5)(8); 982.153(b)(1); 982.306; 982.302(a)(8); 982.453]**

#### **I. OWNER OUTREACH [24 CFR 982.54 (d)(5); 24 CFR 982.153(b)(1)]**

The participation of private property owners is critical to the Section 8 Program. Without owner participation, the rental assistance program can not be successful. Outreach to owners is an ongoing process, and the agency welcomes the participation of all owners of decent, safe, and sanitary housing units. The greater the number of owners participating, the wider the range of housing choices for families. THDA continually invites owners to make dwelling units available for leasing by eligible families in areas outside of low income or minority concentration.

Owner outreach stresses the following:

- Tenant selection rests with the owner.
- Monthly subsidy payments are mailed to the owner on the last working day of the month prior to due date.
- Rental assistance promotes stable occupancy and reduces tenant turnover.
- There is no interference by THDA with the owner-tenant relationship except as mediator.
- Rents may be adjusted annually.
- Owner's current tenants may be eligible to participate in the program.

THDA staff frequently holds informal and formal discussions and meetings with private property owners. Program requirements are explained and printed material is offered to acquaint the owner/manager with the opportunities available under the program.

A list of owners interested in leasing to Section 8 tenants is maintained by each area office and is made available to applicants/participants during briefings and upon request. The list contains available housing units submitted by owners in all neighborhoods within each field office area to ensure greater mobility and housing choice to very low income households.

A landlord newsletter will be generated at least annually and will be attached to the monthly HAP check. The newsletters will contain updates on federal, state and agency regulations.



## **II. OWNER BRIEFINGS**

At the time of initial leasing of a unit, the basic features of the program are explained. The briefing includes but is not limited to the following:

- Owner rights and responsibilities under the terms of the lease and contract
- How the rent is to be paid (THDA portion and tenant portion)
- Tenant rights and responsibilities
- What information and help he may expect from THDA staff
- Housing Quality Standards
- Fraud

At least annually, regional briefings are held for current and prospective owners. Current owners are notified through a newsletter attached to their monthly HAP payment. A public notice will also be placed in THDA's Agency newsletter, *Housing Matters*, published in local newspapers and posted in local field offices. The purpose of the briefing is to assure successful owner participation in the program. The briefing covers the responsibilities and roles of the three parties (tenant, landlord and PHA).

## **III. OWNER SELECTION**

All owners desiring to participate in the Section 8 Program are given information concerning the rules, regulations, policies, etc. If they desire, their name is given to voucher holders who are looking for units. Under no circumstances will favoritism be shown toward any particular owner.

Ultimately, the selection of a unit is the tenant's responsibility. Any owner is accepted as long as the unit and rent meet the program requirements, the owner is in good standing with the program, and there is no conflict of interest.

## **IV. DISAPPROVAL OF OWNERS [24 CFR 982.306; 982.54(D)(8)]**

Owners do not have a right to participate in the Section 8 Rental Assistance Program. The program is a voluntary program. For the purpose of this section, "owner" includes a principal or other interested party.

Owners barred from participation may include any who meet the following conditions:

- They have a conflict of interest because of a position they occupy through employment, appointment, or election;
- They have committed fraud or bribery or any other corrupt act in connection with any federal housing program;
- They have violated an owner obligation under a Section 8 HAP contract;

- They have engaged in drug-trafficking;
- They have broken a lease with a subsidized tenant without good cause or other lease violation;
- They have a history of noncompliance with HQS;
- They have failed to comply with regulations, the mortgage or note or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD; or
- They have engaged in threatening verbal or physical abusive behavior towards THDA personnel.

Owners may also be barred by THDA when directed to do so by HUD.

## **V. OWNER RESPONSIBILITIES**

Owners participating in THDA's HCV program must comply with the items listed on the HAP Contract. Owners must agree to abide by the following:

- To perform routine management functions including screening and selecting tenants, maintaining the property, rent collection and handling tenant problems  
Participation in the HCV program does not relieve an owner of any normal duties. The program simply pays a portion of the rent.
- To comply with all requirements contained in the lease and HAP Contract
- To maintain the unit at all times so it always passes HUD's Housing Quality Standards  
The tenant may be charged for any damages which are tenant caused. Eviction may be considered for tenant damage.
- To collect only the amount of rent from the tenant that is specified in the lease or HAP Contract or any interim adjustment notices  
Any charges in addition to the monthly rent must be stated in the lease or lease addendum.
- To notify promptly the tenant and THDA prior to the commencement of eviction proceedings  
State and local laws governing eviction must be observed.
- To notify local representatives immediately if the tenant vacates the unit  
Owners are not eligible to receive rental payments if the tenant is not living in the unit. The HAP Contract automatically terminates if the tenant leaves the unit. Any rental payments received the month following the month the tenant vacates the unit must be returned to THDA.

- To notify the local representative and tenant at least sixty (60) days prior to the lease anniversary date if a rental increase is requested for the next year
- To assure that utilities are connected to the unit at all times if paid for by the owner  
If a tenant fails to fulfill their obligation to connect/pay utilities, eviction may be considered.
- To provide their current residence address (not just a P.O. Box)
- To submit proof of ownership or proof of a management agent agreement as required by THDA
- To furnish a Social Security Number or tax identification number and complete a W-9 form
- To screen tenants for suitability
- To notify THDA promptly if the family vacates without notice
- To not accept or demand any rent payment from the tenant in excess of the calculated tenant rent

Failure to fulfill these obligations and requirements may result in the withholding, abatement, or termination of Housing Assistance Payments. If the owner does not comply with the stated obligations and requirements, future participation in the Programs may be prohibited.

## **VI. INFORMATION TO OWNERS [24 CFR 982.307(B); 982.54(D)(7)]**

In accordance with HUD requirements, THDA will furnish prospective owners with the family's current address as shown in our records and, if known, the name and address of the landlord at the family's current and prior address. An exception will be made to this requirement if the family's whereabouts must be protected due to domestic abuse or witness protection.

THDA staff will brief owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, eviction history, damage to units and other factors related to the family's suitability as a tenant.

## **VII. MAKING PAYMENTS TO OWNERS**

Once the HAP Contract is executed, THDA begins processing payments to the owner. Checks will be mailed to the owners on the last working day of the month. If the check is not mailed to the owner by the fifth working day of the month, the payment will be considered to be late, and THDA will be responsible for a late payment penalty of \$5.00 for each day, not to exceed 10% of the monthly HAP payment. THDA is not responsible for mail delays or other delays that are

beyond the control of THDA. The date of the check and the postmark date will be used to determine if the payment was mailed late or if the check was delayed due to the postal service.

Checks lost in the mail will not be replaced by a duplicate check until a stop payment is in place, and the bank confirms the original check cannot be cashed.

## **VIII. OWNER AND FAMILY RELATIONS**

Ideally, each family and owner will have good, working relationships. However, THDA cannot control nor does it have authority over the relationship. The legal relationship between an owner and a family is defined by the lease.

THDA engages in certain activities to encourage good relations between families and owners.

1. Staff inform all owners that tenant selection is the owner's responsibility. They encourage owners to screen potential tenants. However, staff do not ask an owner to refuse or accept a tenant based on their recommendation.
2. Staff explain to the owner that, even though he may have a subsidized tenant, he is still responsible for managing the property. Staff do not make routine visits to the property and are not responsible for the behavior of tenants.
3. Staff brief owners concerning their rights and responsibilities under the program, the lease and the contract. They also explain to the owner the rights and responsibilities of the tenant.
4. Staff brief tenants concerning rights and responsibilities under the program and the lease and the rights and responsibilities of the owner.
5. Staff are available to meet with tenants and owners to discuss and help resolve issues in the hope of preventing evictions. However, eviction procedures remain the right and responsibility of the owner.

## **IX. CHANGES IN OWNERSHIP**

A change in ownership is processed only upon written request of the current owner and new owner. The request must be accompanied by some proof of ownership by the new owner (transfer of title, recorded deed of trusts, etc.). The new owner provides his name, living and mailing addresses and Social Security number or Tax ID Number by submitting a State of Tennessee Substitute W-9 form. THDA cannot transfer HAP payments to a new owner before receiving proof that the ownership has been legally transferred. In the case of manufactured homes, the same person or entity must own both the unit and the land. Legal documentation must prove that the new owner has title to both.

A new lease must be executed between the owner and tenant family at the time of the change in ownership. A new HAP Contract is signed by the new owner to be effective the first of the

month following the change in ownership (or notification of the change in ownership, whichever comes first). If THDA is notified after a change in ownership occurs and HAP payments have been made to the previous owner, THDA will not make a HAP payment to the new owner for the same time period. The new owner should seek reimbursement from the previous owner.

## **Chapter 15**

### **FAMILY OBLIGATIONS/RESPONSIBILITIES AND APPOINTMENTS [24 CFR 982.551]**

#### **I. FAMILY OBLIGATIONS/RESPONSIBILITIES [24 CFR 982.551]**

##### **A. Family Requirements**

Under the HCV program, participant families are required to follow the obligations and responsibilities set forth below. Families must do the following:

1. Supply within the time allowed (typically fifteen days) such certification, release, information or documentation as THDA or HUD determines necessary for annual and interim recertifications of family income and composition
2. Disclose and verify social security numbers and sign and submit consent forms for obtaining information
3. Supply only information that is true and complete
4. Be responsible for any HQS breach that is caused by the family (other than normal wear and tear)
5. Allow THDA or its agent to inspect the dwelling unit at reasonable times and after reasonable notice
6. Notify THDA and the owner in writing thirty (30) days before vacating a dwelling unit or terminating the lease  
If a Notice to Vacate is not in writing, the tenant is considered to have moved without notice.
7. Promptly give THDA a copy of any owner eviction notice
8. Use the dwelling unit solely for residence by the family and as the family's sole place of residence\*

\*The family's sole place of residence will be determined by the family's declaration. Absence of the family from the unit will not be construed as not meeting the sole residency obligation unless circumstance including (but not limited to) one or more of the following are true:

- rent is not current and/or is not being paid by a family member;
- utilities are not turned on or are not turned on in a family member's name;

- a utility bill is extremely low for current weather conditions over a 3-month time frame or longer (e.g. in winter, the electric or gas bill is extremely low even though the weather is consistently inclement);
  - the head of household owns or has interest in another residential property and/or utilities are turned on in the head of household's name at another residential property;
  - household furnishings are not present; or
  - the landlord has reported that the family has not met the lease requirement in terms of occupancy except for those situations identified in the sections of this plan on Joint Custody of Children or Temporary Absence.
9. Request and obtain approval from THDA and the landlord before adding any new family members to the household
  10. Promptly inform THDA of the birth, adoption or court-awarded custody of a child
  11. Promptly notify THDA if any family member no longer resides in the unit
  12. Pay utility bills and supply appliances that the owner is not required to supply under the lease. When utilities are the responsibility of the tenant, the utilities must be connected in a household member's name.

Family members may engage in legal profit-making activities in the unit but only if such activities are incidental to the primary use of the unit for residence by the family and are owner-approved.

## **B. Prohibited Family Activities**

HCV participant families must not engage in the following activities:

1. Own or have any interest in the dwelling unit (except for Homeownership Voucher Program participants)  
If the owner is a cooperative, the family must be a member of the cooperative.
2. Commit any fraud, bribery or any other corrupt or criminal act in connection with the HCV program
3. Receive housing assistance under the Section 8 Program while occupying or receiving housing assistance for occupancy of any other unit assisted under any Federal housing program
4. Sublease or assign the lease or transfer the unit
5. Commit any serious or repeated lease violation including but not limited to repeated non payment or late payment of the tenant's portion of the rent and/or

outstanding debt to the landlord due to damages to the unit beyond normal wear and tear that exceeds the security deposit

The following will be considered when deciding if a serious or repeated violation of the lease will result in termination of assistance:

- If the owner terminates tenancy through court action
  - If the owner notifies the family of termination of tenancy for serious or repeated lease violations, and the family moves from the unit prior to the completion of court action, and THDA determines that the cause is a serious or repeated violation of the lease based on available evidence
  - If the owner notifies the family of termination of tenancy for serious or repeated lease violations and the family moves from the unit prior to the completion of court action, and there are police reports, neighborhood complaints or other third party information that has been verified by THDA
  - In cases of outstanding debt, if the family repays the debt to the owner in full, and/or establishes a repayment agreement with the owner to repay the debt
6. Have a pattern of arrests or a conviction for any drug-related, alcohol-related, violent criminal activity or other criminal activity (as defined in Chapter 12); have been evicted from subsidized housing; or have been terminated from any other rental assistance program within the last three years (36 months). For more details, see Chapter 11.
7. Engage in threatening or abusive behavior toward THDA personnel.

## **II. MISSED APPOINTMENTS**

### **A. General Guidelines**

THDA defers to 24 CFR Subpart L, 982.551, which states that the family is required "to supply such certification, release, information or documentation as THDA or HUD determines to be necessary, including the submission of Social Security numbers and verifying documentation, the submission of signed consent forms for the obtaining of wage and claim information from State Wage Information Collection Agency, and submissions required for an annual or interim reexamination of family income and composition."

THDA sets appointments to interview the family and obtain the information identified in 24 CFR Subpart L, 982.551. An applicant or tenant who fails to attend more than one appointment without notifying THDA shall be sent a Notice of Denial or Termination of Assistance for failure to supply the information identified in 24 CFR, Subpart L, 982.551, including such certification, release, information or documentation as THDA or HUD determines to be necessary (or failure to allow the THDA to inspect the dwelling unit at reasonable times and after reasonable notice, if applicable).



## **B. Process When Appointments are Missed**

The process below will be followed when a family misses scheduled appointments.

1. If the family does not attend or call to reschedule the appointment(s) prior to the appointment(s), THDA will begin denial/termination procedures. The applicant or participant will be given an opportunity for an informal review or hearing, as appropriate.
2. If the hearing officer makes a determination in favor of the tenant, an appointment for the original function for which the hearing is being held will be scheduled.
3. If this rescheduled appointment is missed, the family will not have another opportunity for an informal hearing, unless the family submits documentation to the hearing officer that the family did not keep the appointment due to medical reasons or death of a family member.
4. In that case, the hearing officer may decide to allow a rescheduled appointment. The hearing officer will then notify the THDA, who will notify the family, within fifteen (15) calendar days of the submission of documentation to the hearing officer, of the opportunity to have a rescheduled appointment.
5. If the family has missed two appointments and the family does not produce the evidence identified in this Plan, assistance will be terminated with a thirty-day notice (from the date of the final missed appointment) to the family and the owner.
6. If a family misses an appointment for an informal hearing/review, and does not call in advance to re-schedule, the termination decision is automatically upheld unless the family submits documentation to the hearing officer that the family did not keep the appointment due to medical reasons or the death of a family member.

## **C. Summary**

The participant is allowed two (2) missed appointments if he calls in advance of the first appointment to re-schedule or submit documentation that the family did not keep the appointment due to medical reasons or the death of a family member.

If the family misses the second appointment, the termination or denial process is initiated unless the family submits documentation that they did not keep the appointment due to medical reasons or the death of a family member.

The participant has the right to a review/hearing process. If the family misses an appointment for an informal review/hearing and does not call in advance to re-schedule, the termination decision is automatically upheld unless the family submits documentation to the

hearing officer that the family did not keep the appointment due to medical reasons or the death of a family member.

If valid evidence is presented at the review/hearing, a third appointment may be scheduled. If the third appointment is missed, termination or denial is initiated.

## **Chapter 16**

### **COMPLAINTS AND APPEALS** **[24 CFR 982.54(d)(2)(13); 982.554; 982.555(a-f)]**

#### **I. GENERAL POLICY**

THDA responds promptly to complaints by families, owners and others and initiates investigations when complaints are received. THDA requires that complaints, other than HQS violations, be put in writing to the THDA. A complaint regarding the physical condition of a unit may be reported by phone. THDA requests the name and address of all complainants, but anonymous complaints are investigated whenever possible.

#### **II. INFORMAL REVIEW OR HEARING [24 CFR 982.54(d)(2); 982.554; 982.555]**

When THDA makes certain adverse decisions towards a HCV participant family or applicant, the affected person may request an informal review or hearing in accordance with 24 CFR Section 982.554; 982.555. This section outlines the times when a review or hearing is available and the processes and procedures for conducting such reviews and hearings.

##### **A. Opportunities for Informal Review or Hearing**

Whenever THDA makes one of the following decisions, the affected HCV program applicant or participant may request an informal review or hearing:

1. Denial of participation in THDA's HCV program of a person who has applied for assistance but for whom no contract has been signed by THDA with a landlord (an "applicant");
2. Denial or termination of assistance under the HCV program for a person approved for assistance, for whom a contract with a landlord has been signed by THDA and on whose behalf assistance is being paid (a "participant");
3. Determination of the Total Tenant Payment or Tenant Rent for a participant in the HCV program;
4. Modification of the number of bedrooms deemed appropriate for a participant in the HCV program subsequent to the initial determination made in compliance with THDA's Occupancy Standards then in effect;
5. Determination of the number of bedrooms for a participant who wants to move while continuing to participate in the HCV program;
6. Denial of a preference; or
7. Tenant-caused HQS violation.

No opportunity for review is required for discretionary administrative decisions, general policy issues, class grievances, initial determinations of the appropriate number of bedrooms to be entered on the voucher when the decision is made in compliance with THDA's Occupancy Standards, disapproval of proposed leases, denials of extensions of the voucher term or expiration of the voucher.

## **B. Notification of Informal Review or Hearing Appointment and Result**

When an informal review is properly requested, THDA shall notify the applicant or participant of the date, time and location for the informal review by a letter sent, by certified United States mail, to the last known address reflected in THDA's file for the applicant or participant. The letter shall notify the applicant or participant that, at the informal review, they will have an opportunity to present written or oral objections to THDA's decision. The letter shall also state that the applicant or participant may, at his or her own cost, elect to have an attorney or other representation at the informal review. The date of the informal review shall be on or before thirty (30) days from the date THDA receives the written request for the informal review.

After THDA makes the decision specified in Section II, A., 1-6, THDA shall give written notice of the decision in the form of a letter, sent by certified United States Postal Service mail, to the last known address reflected in THDA's files for the applicant or participant. The letter shall state the action taken and the reasons for the decision made. The letter shall also state that if the applicant or participant disagrees with the decision, they may request an informal review with the Rental Assistance Manager of the THDA Regional Office where the initial decision was made on or before fifteen (15) days from the date of THDA's letter to the applicant or participant. The letter shall also state the name, address and telephone number of the person to contact to request an informal review. The request for this informal review must be in writing.

## **C. Informal Reviews**

The informal review shall be conducted in the THDA Regional Office and by the Rental Assistance Manager of the THDA Regional Office where the initial decision was made. If the relevant Rental Assistance Manager either made the decision complained of or was involved in the decision, the informal review shall be carried out by the Director of Rental Assistance or designee.

The purpose of the informal review is to determine whether the THDA staff decision was in accordance with THDA standards and Program regulations. The Rental Assistance Manager may review THDA's file and any other documentation assembled or prepared by THDA staff members affecting the decision under review prior to the date and time of the informal review and may hear a presentation by the THDA staff member responsible for the decision under review during the informal meeting.

The Rental Assistance Manager shall give the applicant or participant an opportunity to present objections, either written or oral, during the informal review. Witnesses may be called and each party shall have the opportunity to question the other party's witnesses at the informal review. The Rental Assistance Manager may establish time limits for the presentations of either the applicant or participant and the THDA staff member. This informal review may be, but need not be, tape recorded. A formal transcript is not required.

Following the informal review, the Rental Assistance Manager shall make a written determination that upholds, modifies, or overrules the THDA staff determination. The written determination shall state the reason(s) for the decision. The applicant or participant shall promptly thereafter be notified of the decision by a letter sent, by certified United States mail, to the last known address reflected in THDA's file for the applicant or participant. The letter shall indicate the decision made and the reasons for it. The letter shall also state that the applicant or participant may further appeal the decision by requesting, in writing, an informal review by the Director of Rental Assistance or designee on or before fifteen (15) days from the date of THDA's letter to the applicant or participant. The applicant or participant appeal must be received by THDA no more than fifteen (15) days from the date of the Rental Assistant Manager's letter to the applicant or participant. The letter shall state the name, address, and telephone number of the person to contact to request further review. The letter shall also state that the applicant or participant may, at his or her own cost, elect to have an attorney or other representation in connection with the further review.

#### **D. Appeal of Informal Review Results**

When review by the Director of Rental Assistance or designee is requested, the Director or designee shall determine whether to hold a hearing, whether to permit additional oral or written presentations or whether to conduct the review by re-examining the record from the informal review. The purpose of the review by the Director of Rental Assistance or designee is to determine whether the decision in question was made in accordance with THDA standards and Program regulations. The record from the informal review shall include the complete THDA file for the applicant or participant, any additional materials presented by THDA staff in connection with the informal review and any materials presented by the applicant or participant at the informal review. If a tape recording was made of the informal review, the tape recording shall also be part of the record for review.

#### **E. Hearings**

If the Director of Rental Assistance or designee elects to hold a hearing, THDA shall notify the applicant or participant of the date, time, and location for the hearing by a letter sent, by certified United States mail, to the last known address reflected in THDA's file for the applicant or participant. The letter shall notify the applicant or participant that, at the hearing, they will have an opportunity to present witnesses and written or oral objections to THDA's decision. The letter shall also state that the applicant or participant may, at his or her own cost, elect to have an attorney or other representation in connection with the further review. Witnesses may be called and each party shall have the opportunity to question the

other party's witnesses at the hearing. At the THDA hearing officer's election, the hearing may be held at THDA's main office in Nashville or in the relevant regional office.

The date of the hearing shall be on or before thirty (30) days from the date THDA receives the written request for review.

Following review or hearing by the Director of Rental Assistance or their designee, a written determination that upholds, modifies, or overrules the result of the informal review will be sent to the applicant or participant. The written determination shall state the reasons for the decision. The applicant or participant shall promptly thereafter be notified of the decision by a letter sent, by certified United States mail, to the last known address reflected in THDA's file for the applicant or participant. The letter shall indicate the decision made and the reasons for it. The letter shall also state that the applicant or participant may further appeal THDA's decision by requesting, in writing, a contested case hearing before an administrative law judge under the Tennessee Uniform Administration Procedures Act on or before fifteen (15) days from the date of THDA's letter to the applicant or participant. The letter shall also state the name, address, and telephone number of the person to contact to request a contested case hearing. The letter shall also state that the applicant or participant may, at their own cost, elect to have a lawyer or other representative represent them in connection with the contested case hearing.

## **F. Procedures for Reviews**

The following shall apply to any agency review conducted under this Chapter:

1. Requests for an informal review or further review shall be handled in a reasonably expeditious manner.
2. The applicant or participant may be represented by a lawyer or may have other representation, at the sole expense of the applicant or participant.
3. The informal review or further review shall be conducted in accordance with these procedures or any other applicable requirements established by Program regulations.
4. Witnesses may be called and questioned by THDA and the applicant or participant and their testimony shall become part of the record of the review.
5. The agency may consider evidence presented without regard to its admissibility under rules of evidence applicable to judicial proceedings.
6. Factual determinations shall be based on a preponderance of the evidence presented at or in connection with the informal review or further review, respectively. This means that the facts supporting one position have a greater weight or are more convincing than the facts supporting an opposite position. This does not mean that the THDA determination is presumed to be correct.

7. The review will be conducted on the record if a participant or applicant fails to appear for a scheduled hearing (at any time during the hearing process) and does not call in advance to reschedule, unless the applicant or participant was unable to attend due to a documented medical emergency or death in his immediate family.
8. While an appeal is pending, assistance payments made on behalf of participants shall be continued. An appeal is no longer pending if, at any point, the applicant or participant fails to provide proper notice, as specified above or as specified in the rules governing contested case hearings, of a subsequent appeal. An appeal is also no longer pending if all appeals, including appeals in the contested case process have been exhausted and a final order is rendered.
9. Housing Assistance Payments will end if at any time during the hearing process, a participant fails to cooperate with the recertification process or the unit is not in compliance with Housing Quality Standards.

### **III. CONTESTED CASE HEARING UNDER THE TENNESSEE UNIFORM ADMINISTRATIVE PROCEDURES ACT**

When a contested case hearing is requested following the completion of the agency review, the matter shall be referred to THDA's Office of the General Counsel. The Office of the General Counsel shall initiate the process for a contested case hearing with an Administrative Law Judge from the Office of the Secretary of State who shall sit alone. The contested case hearing shall be conducted in accordance with the provisions of the Uniform Administrative Procedures Act, T.C.A. Sections 4-5-301, et seq. and THDA rules and regulations. The Office of the General Counsel shall represent THDA in the contested case process.

Following the contested case hearing, the Administrative Law Judge renders an initial order under T.C.A. Section 4-5-314.

The Agency may, on its own motion, seek review of the Administrative Law Judge's initial order by the Agency's Executive Director or designee. If the Agency seeks review, written notice must be sent to all other parties within fifteen (15) days after the initial order's entry. Other parties may seek review by the Executive Director or designee, if within fifteen (15) days after the initial order's entry, written notice is provided to the Agency and any other parties.

The Uniform Administrative Procedures Act applies to the appeal to the Executive Director or designee and any subsequent actions taken after the final order's entry by the Executive Director or designee.

The final order may be appealed by filing a petition for review in the Chancery Court of Davidson County within sixty (60) days of the entry of the final order in accordance with T.C.A. 4-5-322. Thereafter, the appeal will proceed in accordance with the rules and procedures at any time during the processes set forth herein if "...review of the final agency decision would not provide an adequate remedy."

#### **IV. SUMMARY OF REVIEW / HEARING PROCEDURES**

The following is a summary of the procedures for reviews and hearings in the Housing Choice Voucher program.

- THDA makes certain decisions about HCV program rental assistance for applicants or participants.
- THDA sends a letter to the HCV program applicant or participant describing the decision and what the applicant or participant can do if they do not agree with the decision.
- If the applicant or participant does not agree with THDA's decision and properly requests an informal review within fifteen (15) days, the Rental Assistance Manager of the relevant THDA Regional Office conducts the review.
- THDA sends a letter to the applicant or participant describing the results of the review by the Rental Assistance Manager and what the applicant or participant can do if they do not agree with the decision.
- If the applicant or participant does not agree with the decision by the Rental Assistance Manager and properly requests further review within fifteen (15) days, it is conducted by the Director of Rental Assistance or designee.
- THDA sends a letter to the applicant or participant describing the results of the review and what the applicant or participant may do if they do not agree with the decision.
- If an applicant or participant does not agree with the agency informal review decision and makes a proper appeal within fifteen (15) days, a contested case hearing will be held by an Administrative Law Judge sitting alone.
- The Administrative Law Judge will notify the applicant or participant about the hearing. After the hearing, the administrative law judge will make a decision, will notify the applicant or participant about the decision, and will inform the applicant or participant about further appeals.
- Any party may file a petition for judicial review of the final order in the Chancery Court of Davidson County within sixty (60) days of the date of the decision.
- If at any point in the process, there is no proper appeal, the un-appealed decision stands and can be enforced. A petition for judicial review will not stop enforcement of the decision unless so ordered by a judge. Until a decision is final, the status quo is maintained.



## Chapter 17

# SPECIAL ADMISSIONS, HOUSING CONVERSION ACTIONS & OTHER SPECIAL HOUSING TYPES (GROUP HOMES, IGR'S)

### I. SPECIAL ADMISSIONS

A special admission is an admission of an applicant who is not on THDA's waiting list or is admitted without considering the applicant's waiting list position.

IF HUD awards THDA funding that is targeted for families living in specified units, such as Section 8 Project-Based developments, THDA will adhere to the following procedures:

- THDA will use the assistance for the families living in these units;
- THDA will admit a family that is not on the THDA waiting list, or without considering the applicant's position on the waiting list; and
- THDA will maintain records showing that the family was admitted with HUD-targeted assistance.

### II. HOUSING CONVERSION ACTIONS [PIH Notice 2000-09]

Several different types of owner or HUD actions (collectively described as "housing conversion actions") may affect residents of Section 8 Multi-family developments. These actions are owner opt-outs of Section 8 project-based contracts; owner prepayment of the mortgage or voluntary termination of the mortgage insurance of a preservation eligible property (preservation prepayments); HUD enforcement actions against the owner (including termination of non-renewal of a Section 8 project-based housing assistance payments (HAP) contract); and HUD property disposition activities.

As a result of these housing conversion actions, HUD may allocate funding to THDA for the provision of vouchers to be issued to eligible families residing in properties affected by a housing conversion action. The following type of housing conversion actions typically involve voucher issuance:

- **Preservation prepayment or voluntary termination actions**  
The owner prepays the mortgage or voluntarily terminates the mortgage insurance.
- **Project-based Opt-outs**  
The owner chooses to opt-out of certain programs by not renewing an expiring Section 8 or Section 23 project-based contract.
- **HUD Enforcement Actions**  
HUD either terminates the Section 8 project-based HAP contract or does not offer the owner the option to renew an expiring HAP contract due to an owner's failure to comply with the terms of the HAP Contract (includes suspensions and debarments).

HUD enforcement actions may also result from material adverse financial or managerial actions or omissions that lead to either owner default or a documented material violation of one or more of the obligations under the project's Regulatory Agreement.

#### **A. Conversion Actions and Type of Voucher Assistance (Regular or Enhanced)**

THDA issues a special admissions voucher to families affected by HUD conversion actions. The type of housing conversion action determines whether a regular Housing Choice Voucher or an enhanced Housing Choice Voucher is issued to affected families.

##### **1. Regular Housing Choice Vouchers**

These vouchers typically are issued when the housing conversion action is a result of HUD enforcement actions.\*

##### **2. Enhanced Housing Choice Vouchers**

These vouchers typically are issued when the housing conversion action is due to a project based opt-out or a preservation prepayment.

\*If the housing conversion action is due to a HUD enforcement action AND the families are able to remain at the property after the contract termination and receive tenant-based assistance, it may be possible for the eligible families to receive enhanced vouchers. Typically, the property will need to be in good physical condition for the families to qualify for enhanced vouchers. The HUD field office makes the final determination as to whether the vouchers issued to families due to an HUD enforcement action are regular or enhanced.

Families who are issued regular vouchers as the result of an HUD enforcement action are subject to all of the same program rules and regulations as other regular Housing Choice Voucher families.

##### **3. Enhanced Vouchers**

Enhanced vouchers have several special requirements but in all other aspects the vouchers are subject to normal program rules. The special conditions related to enhanced voucher assistance are as follows:

###### **a. Income Limits**

The low-income limit (rather than the very low income limit) is the threshold for families admitted into the Section 8 program with an enhanced voucher.

If the property is a preservation-eligible property (as determined by HUD) on the effective date of prepayment, the family may be one of the following:

- A low-income family (including a very low income family)
- A moderate-income (above 80 percent of area median but below 95 percent) elderly or disabled family

- A moderate-income family residing in a low vacancy area (as determined by HUD)

#### **4. Special Payment Standard when the Family Chooses to Stay in the Same Unit**

For a family that stays in the same unit and receives enhanced voucher assistance, the payment standard used to calculate the voucher housing assistance payment is the gross rent, if the gross rent exceeds the payment standard, provided the proposed gross rent is rent reasonable. This condition applies until the family relocates from the property.

If the gross rent is less than or equal to the normally applicable payment standard, the regular payment standard rules apply.

If the family moves from the project for any reason (including when the proposed new rent for the project is not reasonable or the unit fails HQS), the normal payment standard regulations apply.

#### **5. Rent Reasonableness Documentation and Lease Requirements**

All regular program requirements concerning the reasonableness of the rent and the term and conditions of the approved lease apply to enhanced vouchers. The CURRENT condition of the must be considered for rent comparable purposes. Under no circumstances may the “future” condition (i.e. post repairs or renovation) be considered. Copies of three rent comparables must be kept in the tenant file when the family receives enhanced voucher assistance.

#### **6. Effect of Family Unit Size Limitation**

The family is issued a voucher for the unit size for which they qualify under regular Housing Choice Voucher unit size guidelines. The voucher size is based on subsidy standards, not on the actual size of the unit the family is presently occupying. If a family wishes to stay in the project, but, (1) qualifies for a smaller unit than the actual size of their current unit, AND, (2) the gross rent exceeds the applicable payment standard for the bedroom size on the family voucher, the family must move to an available unit within the project that is the appropriate size according to regular Housing Choice Voucher unit size guidelines.

If the appropriate size unit is not available in the project, the family must then make a good faith effort to find a unit outside of the project that is the correct unit size. The family may be asked to submit documentation of their good faith effort to locate a unit, such as a list of the properties visited.

If the family has not located an eligible unit at the end of the term of the voucher (including any extensions granted) despite making a good faith effort, the family may reside in their current (oversized) unit in the project. The payment standard is the gross rent of the oversized unit.

## **7. Minimum Rent Requirement for Stayers**

Families assisted with enhanced tenant-based assistance have a special statutory minimum rent requirement. The family must pay for rent no less than the rent the family was paying on the date of the “eligibility event” or the project in question (as determined by HUD), unless or until the family’s income decreases to a significant extent (15 percent or more) from the family’s gross income on the effective date of the prepayment.

The family must pay at least the gross rent they were paying on the date of the prepayment or contract termination. THDA’s utility allowance is used to calculate the gross rent at prepayment if all utilities were not included in the rent the family paid to the owner.

If the family’s income decreases at least 15 percent from the gross family income on the date of the eligibility event, the minimum family contribution shall be reduced so that the percentage of income for rent does not exceed the greater of 30 percent or the percentage of monthly adjusted income actually paid by the family on the effective date of the prepayment.

## **B. HAP Contract Execution**

The effective date of the Housing Assistance Payments Contract for special admissions due to housing conversion actions is based on whether the family stays in the property (assuming the units are eligible for assistance) or relocates. For families that stay in the property (“stayers”), the HAP Contract may not be effective prior to the target date of the Housing Conversion Action. HUD determines the target date. For families that choose to relocate, the HAP Contract may be effective prior to the target date, if the ACC funding increment is established. In this case, the HAP contract date may be effective on the date the ACC funding increment is effective.

## **C. Calculating HAP**

HAP is calculated in the manner outlined below depending on the situation.

### **1. Stayers**

Regardless of whether the owner’s new gross rent after the eligibility event exceeds or is less than THDA’s payment standard, the housing assistance payment for a family who stays in their present unit (or moves to an appropriate size unit within the project) will equal the gross rent for the unit minus the greater of the following:

- 30 percent of the adjusted family income
- 10 percent of the family monthly income (gross monthly income)
- The applicable “rent” that the family was paying on the date of the prepayment or voluntary termination
- THDA minimum rent

## **2. Movers**

If a resident decides to move from the unit with voucher assistance, the payment standard is not enhanced and the enhanced voucher minimum rent does not apply (except in cases where a family is moving to an appropriate size unit within the project). The housing assistance payment and the family contribution at the new unit are calculated in accordance with the regular rules of the Housing Choice Voucher Program.

## **3. Turnover of Special Admissions Vouchers**

Once a voucher issued to a family as the result of a housing conversion action turns over for any reason, the voucher is absorbed into THDA's regular Housing Choice Voucher program. If the voucher is an enhanced voucher, it loses its special enhanced characteristics and is subject to normal program rules.

### **III. RENT DETERMINATION FOR GROUP HOMES, INDEPENDENT GROUP RESIDENCES, SINGLE RESIDENCE OCCUPANCY FACILITIES AND ASSISTED LIVING FACILITIES**

Group homes, independent group residences, single residence occupancy and assisted living facilities only may be approved for elderly and disabled individuals.

The cost of meals and supportive services may not be included in the cost of the rent to owner. These items must be paid through other sources. Nonpayment of the fees for meals and services is not grounds for termination of Housing Choice Voucher assistance or for eviction from the housing.

A separate lease and HAP contract must be executed for each assisted person living in a group home, IGR, single residence occupancy facility or assisted living facility.

#### **A. Types of Group Housing**

The various types of group housing along with descriptions are listed below.

### **1. Group Homes**

To qualify as a group home under the Program, the home must *be licensed, certified or otherwise approved in writing by the State of Tennessee*. Individuals residing in a group home may have a live-in aide approved. The live-in aide must be counted when determining unit size for the assisted individual. Except for the live-in aide, all residents of the unit must be elderly or disabled. *No more than twelve individuals may reside in a group home*. The group home may consist of assisted and unassisted households.

A group home may be approved if the bedrooms (sleeping quarters) are shared.

## **2. Independent Group Residences (Congregate Housing)**

Independent Group Residences are not typically licensed by the state like group homes. Most are, however, approved for occupancy by the State of Tennessee division of Mental Health/Developmental Disabilities. To meet the definition of an IGR, 2 or more persons who receive supportive services must occupy the unit. *An IGR may not be approved if the bedrooms (sleeping quarters) are shared.* Each occupant must have individual living quarters.

It is appropriate for a participant in the HCV Program to reside in an Independent Group Residence with one (or more) individuals receiving rental assistance through the state Division of Mental Health/Mental Retardation (STRAP Program). It is not appropriate, however, for an individual to receive both a Section 8 subsidy and a STRAP subsidy.

If approved, the person may have a live-in aide assigned to the unit. The live-in aide must be counted when determining unit size for the assisted family.

## **3. Assisted Living Facilities**

Assisted living facilities are designed for residents who have the physical ability to live independently but need assistance with some activities of daily living, such as personal care, transportation, meals, laundry, medication monitoring, security and housekeeping. A facility may not be approved as an assisted living facility if the facility provides continual medical or nursing care. Nursing homes, board and care homes, or facilities providing continual psychiatric medical or nursing services, are not eligible properties under the housing choice voucher program.

An assisted living facility may not be approved if the bedrooms (sleeping quarters) are shared. Each occupant must have individual living quarters.

## **B. Total Tenant Payment/Housing Assistance Payment in Group Homes, IGRs and Assisted Living Facilities**

One of two methods may be used when determining the housing assistance payment in group homes, IGRs and assisted living facilities.

### **1. Method A**

Method A should be used when the bedrooms are not shared and a live-in aide resides in the unit and assists all of the residents (this method allows the cost of the live-in aide's housing to be equally divided between all residents).

To determine the pro-rata portion for each assisted household residing in the group home, perform the following calculation:

Divide the number of persons in the assisted household (the number of persons includes all residents assisted and unassisted and any live-in aide) by the total number of residents residing in the group home (assisted and unassisted).

**Example:** Two assisted and two unassisted tenants reside in a unit with one live-in aide.

- a. To determine the pro-rata portion for the assisted residents:  
Divide 5 (# of assisted and unassisted residents and live-in aide) by 4 (# of assisted and unassisted residents). The result is 1.25.
- b. To determine the maximum subsidy for assisted households residing in the group home:
  - Determine unit size for each assisted family. A live-in aide must be included in the family unit size if a live-in aide resides in the unit.
  - Determine the appropriate payment standard. The payment standard is the LOWER of the actual payment standard for the unit size OR the pro-rata portion of the payment standard for the group home unit size. If a live-in aide resides in the unit, the actual payment standard for each assisted resident is the two-bedroom standard.
    - To determine the pro-rata portion of the payment standard for the example above, divide the five-bedroom payment standard by the number of persons residing in the unit (excluding the live-in aide). Then, multiply this figure by the pro-rata portion. If the payment standard for a five-bedroom unit is \$850; 5 persons reside in the home. The pro-rata portion is 1.25.  $\$850 \div 4 = \$213.00$  times 1.25 = \$266.00
- c. To determine the pro-rata portion of the contract rent and utilities for the unit:  
Divide the contract rent and utility allowance (for the unit size) by the number of residents (assisted and unassisted) residing in the unit.

**Example:** Four residents (assisted and unassisted) reside in a group home with one live-in aide. The contract rent for the unit is \$950 per month and includes all utilities (excluding housing services and meals). The payment standard for a one-bedroom unit in the county is \$325.00. The payment standard for a two-bedroom unit is \$450.00. The payment standard for a five-bedroom unit in the county is \$850.00

- a. Determine the pro-rata portion for each assisted household.  
Divide 5 by 4 = 1.25
- b. Determine the unit size for each assisted household.  
The unit size for each assisted household is 2.

- c. Determine the two-bedroom payment standard for the county, and the pro-rata payment standard for the five-bedroom unit.

2 bedroom payment standard = \$450.00

Pro-rata payment standard for 5 bedroom unit: \$850.00 divided by 4 persons (exclude live-in aide) times 1.25 = \$266.00

The payment standard is the LOWER of the payment standard by family size (2 bedroom) or the pro-rata payment standard. In this case, the pro-rata payment standard is less at \$266.00

The payment standard for each assisted resident is \$266.00

- d. Determine the contract rent and utilities for each resident.

Divide \$950 by 4 = \$238.00. In this case, utilities are included in the contract rent. So, \$238.00 is also the gross rent.

## **2. Method B**

Method B should be used when a live-in aide does not reside in the unit, or resides in the unit but only cares for one individual. In this method, the housing assistance payment is calculated by the same method as the normal voucher subsidy calculation. The housing assistance payment is the lower of the gross rent (including utility allowance for all tenant-furnished utilities) or payment standard minus the total tenant payment.



## **Chapter 18**

### **HOMEOWNERSHIP VOUCHER PROGRAM OPTION [24 CFR 982.625]**

#### **I. GENERAL PROVISIONS**

Under 24 CFR 982.625, PHAs may elect to provide Housing Choice Voucher assistance to an eligible family that purchases, rather than rents, a dwelling unit that will be occupied by the family. The homeownership option does not require, and HUD does not provide, additional or separate funding. THDA will use the voucher program funding previously established under existing Annual Contributions Contracts (ACC) for the Housing Choice Voucher program to fund the Homeownership Voucher program option.

The THDA Board of Directors approved the option of allowing eligible participants in the Housing Choice Voucher program to purchase a home with their Housing Choice Voucher assistance rather than renting on a trial basis in July 2001. The Board adopted the Homeownership Voucher Program as a permanent option for eligible applicants and participants in the Housing Choice Voucher program in September 2002.

The program will provide additional affordable housing opportunities for low-income families and encourage self-sufficiency among Housing Choice Voucher Program participants.

#### **II. INITIAL ELIGIBILITY REQUIREMENTS**

A Housing Choice Voucher program applicant or participant who wishes to utilize his voucher subsidy to purchase, rather than rent a home, must meet the following initial eligibility requirements:

1. A family must meet the general requirements for admission to or continued participation in the THDA Housing Choice Voucher program.
2. Current Housing Choice Voucher Program participants must be in full compliance with their lease and Housing Choice Voucher program requirements and must terminate their current lease arrangement in compliance with the lease (at least a 30-day notice is required).
3. The family must be "first-time homeowners," meaning that a family member must not have owned title to a principal residence in the last three (3) years. Residents of limited equity cooperatives are eligible for the homeownership program.
4. The head of household or spouse must be employed full-time (employment must average a minimum of 30 hours per week) and have been continuously employed<sup>1</sup> during the past

---

<sup>1</sup> Continuously employed is defined as employed in the same position for 24 months. A person is considered to be

twenty-four (24) months before commencement of homeownership assistance. Federal Work Study income is not eligible to meet work history requirement. **Families whose head of household or spouse is disabled or elderly are exempted from the employment requirement.**

5. The family must have at least \$12,500 annual income. Public assistance income\* may not be used for meeting the income requirement when the family is not elderly or disabled. Seasonal employees such as teachers, must be certified annually instead of on an interim basis when income decreases for a short period of time (i.e. summer vacation).

If a family verifies that they have pre-qualified for a mortgage loan that sufficiently covers the purchase price of a suitable home in their regional area and meets THDA's financing standards (*see Section VI below*) prior to being admitted to the Homeownership Voucher Program, then the family may be determined eligible if their income is at least the Federal minimum wage multiplied by 2,000 hours (currently \$10,300), or the Federal Social Security Income Disability standard for an individual multiplied by twelve (12) months (currently 6,540) for families in whose head or spouse is disabled.

\*Public assistance includes federal housing assistance or the housing component of a welfare to work grant; TANF assistance (Families First), SSI that is subject to an income eligibility test; food stamps; general or other assistance provided under a federal, state or local program that provides assistance available to meet family living or housing expenses.

6. The family may not owe money to THDA or any other housing authority.
7. A head of household or spouse who has previously defaulted on a mortgage obtained through the Homeownership Voucher program is not eligible to purchase another home with voucher assistance.
8. A married head of household, who is physically separated (does not share residence) but not legally divorced from his spouse, must either divorce or include the spouse (and his/her income) in the household for the eligibility determination.
9. If an applicant wishes to buy a home with a co-applicant, the co-applicant must be included in the applicant's Housing Choice Voucher at the time of application.

### III. PARTER AGENCIES

THDA has partnered with several agencies throughout Tennessee who offer homebuyer education classes and/or mortgage loan products. In particular, THDA has partnered with all of the Neighborworks® Organizations in its jurisdiction. The Neighborworks® Organizations

---

the interruption in employment is 4 weeks or less. Compensatory factors to work may be considered for those with less than 24 months employment but with at least 12 months continuous employment. **Participation in an FSS Program may be considered a compensatory factor if the family has been employed for the past 12 months and prior to employment was enrolled in a job training or education program to further employment goals.**

---

(NWOs) offer homebuyer education based on the Full Cycle Lending<sup>sm</sup>, Neighborhood Reinvestment Corporation and the Neighborworks<sup>®</sup> network. The trainers are certified by Neighborhood Reinvestment. The NWOs also offer a low-interest second mortgage loan product for qualified buyers. THDA has also partnered with Tennessee Network for Community and Economic Development (TNCED) and Rural Legal Services for homebuyer education. Rural Development has partnered with THDA to offer a low-interest first mortgage loan product for buyers in qualifying communities.

THDA will partner with other government and nonprofit agencies as requested.

#### **IV. HOMEBUYER EDUCATION**

HUD requires that families receive pre-purchase homebuyer education (8-hour minimum) before they are eligible to receive assistance through the Homeownership Voucher Program. The family will not be considered eligible to use their voucher to purchase a home until they have completed the homebuyer education requirements and secured appropriate financing to purchase a home. All eligible applicants will be given information on a THDA partner agency that offers homebuyer education in close proximity to their residence. At a minimum, the homebuyer education will include the following:

- Budgeting and money maintenance
- Credit counseling
- Knowing the players and their roles in the home buying process
- How to negotiate purchase price
- Preparation for loan qualification and application
- How to obtain homeownership financing
- How to find a home
- Advantages of purchasing and how to locate a home in an area that does not have a high concentration of low-income families
- Maintaining a home
- Avoiding delinquencies, defaults and foreclosures

Upon completion of the pre-purchase homebuyer education, THDA voucher holders should have an understanding of how to do the following:

- Determine if homeownership is right for them;
- Budget and manage their credit;
- Determine what they can afford to spend on a home;
- Identify what they want and need in a home;
- Shop for a home that meets their needs;
- Decide how much to offer for a house;
- Obtain and use a home inspection;
- Shop for an affordable mortgage;
- Know what to expect at closing and settlement;
- Meet the ongoing financial obligations of homeownership and avoid default;

- Care for the home after purchase; and
- Take advantage of financial opportunities that come with homeownership.

THDA requires post-purchase homebuyer education (6-hour preferred) with all Homeownership Voucher participants once they have secured a mortgage and have moved into their home in order to remain in compliance with the program regulations. **This counseling should be done through the original homebuyer education agency whenever possible.** The FSS Coordinator, other staff member or partner will work with the family to schedule the post-purchase education.

## V. PRE-QUALIFYING APPLICATION AND MORTGAGE READINESS

The Homeownership Voucher program will be reviewed with all eligible voucher holders through an oral briefing or written, mailed materials. All interested participants will be forwarded a Homeownership Voucher Program Pre-Qualifying Application. Once THDA receives the Pre-Qualifying Application, it will be reviewed to determine whether the applicant meets the initial eligibility criteria (cited in Section II). If the applicant meets the initial eligibility criteria (cited in Section II), an Information Packet, including a Certification of Eligibility, Rules and Regulations form and Homeownership Obligations form will be sent to the family, as well as information on Homebuyer Education options in their regional area.

The family will be required to attend either an individual or group Homebuyer Education program. During the homebuyer education process, the families' level of mortgage readiness will be determined. The family's mortgage readiness will be based on the following: income qualifications; debt/asset ratio; minimum qualification status; employment status; escrow balances and Housing Choice Voucher Program compliance status. Standard FHA income-to-debt service ratios will be used to determine the family's mortgage readiness.

THDA will work with the family and partner agency (homebuyer educator) to determine the participant's level of mortgage readiness. The participant will be assigned a rating value of one of the following designations: Level 1, Level 2 or Level 3. These levels are designed to indicate the readiness of each participant for the homeownership voucher program.

| <u>Level:</u> | <u>Definition:</u>  |
|---------------|---|
| Level 1       | Family is within six (6) months of being fully ready for homeownership. Employment history is stable and meets the minimum program requirements. The family has access to the required assets needed to secure a mortgage and for required downpayment and closing costs. A minimum of 8 hours pre-Homebuyer Education either has been completed or will be completed in the next 6 months. |
| Level 2       | Family is between six and 12 months of being fully ready for homeownership. Family may be in the process of completing the family self-sufficiency goals and/or is close  |

to securing the required amount of funds for downpayment. Additional time is needed for homebuyer requirements and completion of homebuyer education.

Level 3

Family is more than 12 months from being ready for homeownership. Family may have unstable employment history, insufficient debt/asset ratio, no available funds for downpayment and requires long-term homebuyer education.

Housing Choice Voucher participants that are determined to be within 12 months of being mortgage ready will be assigned to a Family Self-Sufficiency Coordinator, other THDA staff member or partner for consistent monitoring.

A THDA staff member or partner will assist the family in meeting the final eligibility requirements for a homeownership voucher, such as homebuyer education, and work as a liaison between the homebuyer educator, potential mortgage lender and the family.

Housing Choice Voucher participants determined to be at level 3 will not be consistently monitored. Rather, they will be given the initial guidance to begin preparing for mortgage readiness, and they will be required to contact a THDA FSS Coordinator for reevaluation at a later time. These families typically will need long-term financial fitness counseling before they are mortgage ready.

**Homeownership Voucher applicants must wait two (2) years from the discharge date of a chapter 7 bankruptcy and one (1) year from the discharge date of a chapter 13 bankruptcy before applying for the program.**

## VI. FINANCING

Participating families are responsible for securing financing for the purchase of a home that is insured or guaranteed by the state or Federal government, complies with secondary mortgage market underwriting requirements, or complies with generally accepted private sector underwriting standards. Although THDA will not direct families to any particular lender, Neighborworks® Organizations, Rural Development, Fannie Mae other lenders and other non-profit entities currently offer affordable first and/or second mortgages to low income families participating in the Homeownership Voucher program.

The proposed financing terms (HUD-1 Settlement) must be submitted to and approved by THDA prior to the close of escrow. THDA staff will review the terms of financing for each family to protect the family from predatory or abusive lending practices. The following terms are not acceptable:

- Loans with financing costs that are a high percentage of the total loan amount
- Loans that include high credit insurance premiums
- **Loans with balloon payments or adjustable rate mortgages (ARMS) that will not be paid off by the subsidy before maturity**

- Loans with above-market interest rates or discount points
- Loans with pre-payment penalties
- Loans with excessive fees or fees that have not been adequately explained to the borrower

## **A. Financing Models**

Participating families may use one of two financing models in the Homeownership Voucher program.

### **1. One-Mortgage Model**

The one-mortgage model allows the Homeownership Voucher Program participant (borrower) to secure a first mortgage that covers the entire purchase price of the home. HUD's September 7, 2001 Mortgagee Letter (2001-20), advises lenders to assume the housing assistance payment will continue for at least three years. The Mortgagee Letter (2001-20) also allows advises lenders of acceptable underwriting methods when working with Homeownership Voucher participants. The following are acceptable underwriting methods for loans made to Homeownership Voucher Program participants:

- Add the subsidy payment (HAP) to borrower's income as an "other" source of income. In this model, the subsidy payment may be "grossed up" 25 percent.
- Deduct the subsidy payment (HAP) from the principle, interest, taxes and insurance (PITI). Housing debt to income ratio is based upon the "net housing obligation" of the borrower.

In the one mortgage model, the participant makes a payment for his portion of the monthly mortgage payment (approximately 30% of his monthly-adjusted income) directly to the lender, and THDA pays the remainder of the mortgage payment directly to the lender or loan servicing company. At the end of the maximum term, the Housing Choice Voucher mortgage assistance payment ends, and the family is responsible for the full mortgage payment (for disabled families, the assistance payment continues for the loan term).

### **2. Two-Mortgage Model**

The two-mortgage model allows the Homeownership Voucher Program participant (borrower), who can not secure a first mortgage that will be sufficient to cover the full purchase price of a home in their area, the alternative of combining a first and second mortgage to purchase a home. The family secures a conventional first mortgage loan based on their family income. The family is responsible for making monthly payments for the full amount of the first mortgage directly to the lender. The second mortgage is provided by a THDA partner, typically a Neighborworks<sup>®</sup> Organization, or other government or non-profit entity. The second mortgage is typically a low-interest loan for the maximum term allowed. The family's Housing Choice Voucher subsidy is applied to the principle and interest of the second mortgage and is paid

directly to the second mortgage lender or loan servicing company. At the end of the subsidy term, the second mortgage is paid in full.

*Example:*

|   | <i>Amount</i> | <i>Payment</i>                       |
|---|---------------|--------------------------------------|
| 1st Mortgage<br>-30 year amortization<br>at 6 <sup>1</sup> / <sub>2</sub> % | \$53,000      | \$420.00 (paid by<br>family monthly) |
| 2nd Mortgage<br>-15 year amortization<br>at 8%                              | \$23,500      | \$225.00 (paid by<br>THDA monthly)   |
| Escrow  | \$2900        | paid by family                       |
| Closing Costs   | (\$3,000)     | paid by family                       |

If the family's subsidy payment exceeds the monthly second mortgage loan payment due to the second mortgage lender, THDA will offer the family the choice of either having the excess HAP placed in an emergency reserve account, or applying it to the principle of the second mortgage loan, in order to pay the debt toward the second mortgage loan more quickly. If the family decides to apply the excess HAP to the second mortgage loan payment, they will sign the Request to Make Full Housing Assistance Payment to Second Mortgage Lender form certifying their choice.

## **B. THDA Financing**

Should the borrower choose to pursue THDA funded financing for his first mortgage, the following steps will be required:

1. Complete an executed sales contract on a prospective property. This is optional. Given the nature of the transaction, borrower(s) may wish to wait for program approval/loan pre-approval.
2. Contact a THDA approved lender, Originating Agent, and begin the first mortgage pre-qualification process to establish preliminary approval for a loan and a reasonable loan amount that the lender would be willing to make.
3. Establish the availability, and need, for any second mortgage assistance to provide the purchase price amount. If sales contract is already executed, need, or lack thereof, will be evident based on difference between the pre-approved amount of the first mortgage and the actual sale price.
4. If need exists, borrower(s) must then pursue secondary financing from a provider.

5. All requirements of the selected THDA mortgage program must be met.

### **C. Downpayment**

A minimum downpayment of 3 percent of the purchase price is required for participation in the Homeownership Voucher Program. At least 1 percent of the purchase price must come from the family's personal resources. The family may use grants or other funds to cover the remainder of the downpayment and closing costs when available.

## **VII. FINAL ELIGIBILITY DETERMINATION**

A family who chooses to use their voucher for homeownership may have their income recertified several times between their initial eligibility determination and the final eligibility determination and voucher issuance. Once the family completes the homebuyer education process and is determined mortgage ready, their income eligibility will be recertified. To ensure an accurate HAP figure for the lender, the family's income will be recertified again when THDA is notified of the loan closing date.

## **VIII. VOUCHER ISSUANCE AND TIMEFRAME FOR UTILIZATION**

A voucher for homeownership purposes will be issued to the family following the final eligibility determination. Once the Homeownership Voucher is issued, the family will have a maximum of 180 days from the issue date of the voucher to find a home and enter into a "Contract for Sale."

If a participant is unable to enter into a "Contract for Sale" before the end of the 180-day deadline, the applicant will be provided an additional 90 days to either enter into a "Contract for Sale" or to utilize the voucher in a rental situation.

Any extensions beyond 270 days will be at the sole discretion of the THDA Director of Rental Assistance.

## **IX. SUBSIDY STANDARDS**

Because the family may not compensate for family composition changes by relocating without selling their home, an exception to the regular Housing Choice Voucher Program subsidy standards is necessary. For purposes of the Homeownership Voucher Program, the family will not be required to share bedrooms. The subsidy standard will be one bedroom per household member.

## **X. CONTRACT FOR SALE AND INSPECTION REQUIREMENTS**

This section details the requirements of the "Contract for Sale" and the inspection of units in the Homeownership Voucher program.



## **A. Contract for Sale**

Participants in the Homeownership Voucher program must complete a "Contract for Sale" or Residential Purchase Agreement (herein "Agreement") with the owner of the property to be purchased. The Agreement must include the THDA Addendum to the Sales Contract or Residential Purchase Agreement and must be approved by THDA. The Agreement should include at least the home's price and terms of sale, the purchaser's pre-purchase inspection requirements and notice that the sale is conditional on the purchaser's acceptance of the inspection report, and an agreement that the seller is obligated to pay for necessary repairs.

## **B. Independent Inspection**

The participant must obtain an independent professional home inspection of the unit's major systems at the participant's expense. The inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical and heating systems.

## **C. Housing Quality Standards Inspection**

THDA will conduct a Housing Quality Standards (HQS) inspection according to the HUD guidelines and will review the independent professional inspection of the unit's major systems to determine if the unit may be approved for program participation.

THDA will perform at least one additional HQS inspection at the family's first annual recertification. THDA may elect to conduct other HQS inspections at the request of a partner agency or lender (not to exceed three in a two-year period). Based on the inspection(s), the family will be sent a list of suggested repairs. THDA will not, however, conduct a re-inspection to determine if the repairs have been completed. In contrast to the rental assistance program, the family will not be considered non-compliant with the program if they fail to make repairs within a certain time frame. The HQS report may be shared with the lender at the lender's request to allow the lender to work with the family on securing financing for any major repairs necessary to maintain the quality of the home.

If the home was constructed within sixty (60) days of the Contract for Sale and has remained unoccupied during that time, the use and occupancy letter from the local code administrator can be substituted for the pre-purchase inspection.

THDA retains the right to disqualify the unit for inclusion in the homeownership program based on either the HQS inspection or the professional inspection report findings.

## **XI. PORTABILITY**

Families who are determined eligible for homeownership assistance may exercise their right to relocate outside of THDA's jurisdiction if the receiving public housing authority is administering a Homeownership Voucher program and is accepting new families into its Homeownership Voucher program. In the event that a family ports to any county in the State of Tennessee where

the Homeownership Voucher program is not administered, then THDA will continue to administer the Homeownership Voucher.

## **XII. PERMITTED UNIT TYPES**

The unit must be an existing dwelling (the foundation must be poured or the unit must be under construction) before the Contract of Sale is executed. Most single family unit types are eligible, such as single family homes, condominiums or townhomes, manufactured homes (must have permanent foundation) or modular or pre-fabricated homes. If the family does not own fee title to the real property on which the home is located (e.g. manufactured housing on a land lease property), the family must have the right to occupy the site for a period of at least forty years to qualify for participation. THDA will approve units on a case-by-case basis.

## **XIII. PERMITTED OWNERSHIP ARRANGEMENTS**

To be approved for the program, a home must either be under construction or already existing at the time THDA makes the final eligibility decision. The homeownership option may be utilized in the following two types of housing:

1. A unit owned by the family, where one or more family members hold title to the home, including homes previously occupied under a lease-purchase agreement; or
2. A cooperative unit, where one or more family members hold membership shares in the cooperative (applies only to elderly and disabled persons as a reasonable accommodation).

The participant must determine and document whether or not the unit is in a flood hazard area. Units in flood hazard areas must be insured for flood damage.

## **XIV. HOMEOWNERSHIP ASSISTANCE PAYMENT**

The participant's monthly mortgage assistance payment will equal the lower of the following:

1. The voucher payment standard minus the Total Tenant Payment (the greater of 30% of monthly adjusted income or 10% of monthly income); or
2. The monthly homeownership expenses minus the TTP.

Homeownership expenses include principal and interest on the mortgage debt, mortgage insurance premium, real estate taxes and homeowner insurance, THDA allowance for utilities, THDA allowance for Maintenance and Repairs and other costs as THDA determines necessary, including the cost of making the home accessible for a family member with disabilities if necessary as a reasonable accommodation.

Mortgage assistance payments will be made by THDA directly to the approved first or second mortgage lender or loan servicing company.

The household must include at least one employed member at all times during participation in the Homeownership Voucher Program earning a minimum of \$12,500 annually, unless the head or spouse is disabled. The household is responsible for the first mortgage payment in full at all times. THDA may choose to perform an interim reexamination and increase the mortgage assistance payments.

In the event of a loss of employment that results in employment income of less than \$12,500 annually, the household will be offered six months to secure new employment earning at least \$12,500 annually. If at least one household member does not secure new employment income of at least \$12,500 annually within the 6 month time period, the assistance will be terminated.

An exception to the six month timeframe for securing new employment may be considered when a household member loses his job due to no fault of their own, such as a factory closing or lay-off. An exception may also be considered for long-term medical incapacitation. In this case, the household must send a letter requesting an exception to the Statewide FSS/Homeownership Coordinator. Documentation of the job loss or medical necessity may also be required.

## **XV. PAYMENT STANDARD**

At initial move-in to the Homeownership Voucher program, the payment standard used for the family is the regular payment standard applicable by bedroom size and county except in counties where the payment standard is less than 110 percent of the Fair Market Rent (FMR). In counties where the payment standard is less than 110 percent of FMR, the payment standard for purposes of the Homeownership Voucher program will be established at 110 percent of FMR.

The payment standard for subsequent years (after the initial year) will be based on the higher of the following:

1. The payment standard in effect at commencement of the homeownership assistance; or
2. The payment standard in effect at the most recent regular recertification of the family's income and size.

## **XVI. ALLOWANCE FOR ROUTINE AND LONG-TERM MAINTENANCE AND REPAIRS**

As required by HUD regulations, THDA has established reasonable allowances for routine and long-term maintenance and repairs. The allowances were determined by taking into consideration reasonable and ongoing costs to the family for home maintenance.

## **XVII. UTILITY ALLOWANCE**

The regular Housing Choice Voucher program utility allowance will be utilized for the Homeownership Voucher Program.

## **XVIII. MAXIMUM SUBSIDY TERM**

Homeownership assistance will only be provided for the time period the family is in residence in the home. Housing Choice Voucher assistance may be provided for a maximum of fifteen (15) years if the initial mortgage secured to finance the purchase of the home has a term that is twenty (20) years or longer. Elderly and disabled families are exempt from the 15-year maximum time limit. The participant will be recertified on an annual basis to determine income eligibility. In the event that the participant's income increases to the point that they are no longer eligible to receive a mortgage subsidy (i.e. zero mortgage assistance payment), THDA will notify the lender(s) or loan servicing company of the family's increased financial responsibility for the payment. The family, however, remains eligible for the program, in the event that their income decreases, for 180 days from the date of the change (zero HAP period).

## **XIX. FAMILY OBLIGATIONS**

Before commencement of homeownership assistance, the participant must execute a "Statement of Family Obligations for the Homeownership Program" in the form prescribed by THDA. To continue to receive homeownership assistance, a participant must comply with the following family obligations:

1. The participant must comply with the terms of any mortgage securing the debt incurred to purchase the home, and any refinancing of such debt.
2. During the period of time the participant is receiving homeownership assistance, the family may not sell, convey, or transfer any interest in the home to any entity or person other than a member of the assisted family residing in the home.
3. During the period of time the participant is receiving homeownership assistance, the family may not take out a home equity loan without the written consent of THDA (and/or second mortgage lender).
4. During the period of time the participant is receiving homeownership assistance, the family must supply required information regarding income and family composition in a timely manner in order to calculate correctly total tenant payment and homeownership assistance.
5. During the period of time the participant is receiving homeownership assistance, the family must provide information on any mortgage or other debt incurred to purchase the home, and any refinancing of such debt, and any sale or other transfer of interest in the home.
6. During the period of time the participant is receiving homeownership assistance, the family must notify THDA if the family defaults on a mortgage securing any debt incurred to purchase the home.

7. During the period of time the participant is receiving homeownership assistance, the family must notify THDA before the family moves out of the home.
8. At annual recertification, the participant must document that he or she is current on mortgage, insurance and utility payments.
9. The household must include at least one employed member at all times during participation in the Homeownership Voucher Program earning a minimum of \$12,500 annually, unless the head or spouse is disabled. In the event of loss of employment that results in annual income of less than \$12,500, the household will be offered six months to secure new employment.

## **XX. TERMINATION OF ASSISTANCE**

The family must comply with all Family Obligations as outlined in this Administrative Plan. Failure to comply with the Family Obligations of the Homeownership Voucher program will result in termination of the family's assistance.

In addition, the following will also be grounds for termination of assistance:

1. A participant defaults on his or her mortgage loan (i.e. fails to fulfill a monthly payment obligation as required by the Deed of Trust note on a timely basis), as determined by the lender.
2. The family is dispossessed from the home due to a judgment or order of foreclosure.
3. The family transfers or conveys the ownership of the home.
4. The family has been unemployed for 6 months.

If a family is terminated from the Homeownership Voucher Program, they must reapply for the program in order to receive rental assistance.

## **XXI. LEASE-TO-PURCHASE AGREEMENTS**

Lease-to-purchase agreements are considered rental property and subject to the normal Housing Choice Voucher Program rules and regulations. The family will be subject to the homeownership requirements at the time the family is ready to exercise the homeownership option under the lease-to-purchase agreement.

## **XXII. HOME SALE**

The family must sell their current home in order to purchase another home with Housing Choice Voucher assistance. If the family requests to purchase another home with Housing Choice Voucher assistance after they have sold their first home, they must meet the eligibility requirements for participation in the homeownership program (e.g. must be employed full time).

The maximum term of homeownership assistance applies to the cumulative time the family receives homeownership assistance. The family may not move more than once in any twelve (12) month period.

### **XXIII. ANNUAL RECERTIFICATION**

At least ninety (90) days prior to the family's annual recertification date, THDA will contact the family and request updated income and other verification information and, when necessary, schedule an HQS inspection. The family must cooperate with the recertification process in order to remain eligible to receive assistance through the Homeownership Voucher program.

## **Chapter 19**

### **RESIDENT ADVISORY BOARD AND RESIDENT ADVISORY BOARD OF DIRECTORS MEMBER [24 CFR 964]**

#### **I. RESIDENT ADVISORY BOARD**

THDA will maintain a Resident Advisory Board for the Housing Choice Voucher program.

##### **A. Resident Participation [24 CFR 964.11]**

THDA and HUD promote participation and the active involvement of residents in all aspects of the housing authority's Housing Choice Voucher program mission and operation. HCV participants have a right to serve on a Resident Advisory Board to represent their interests. THDA's Resident Advisory Board is composed of active HCV participants who provide supportive assistance to HCV personnel.

##### **B. Resident Organization Partnership [24 CFR 964.14]**

THDA shall enter into a partnership with the members of the Resident Advisory Board (RAB), formalized by a written Memorandum of Agreement, that identifies the mission of the RAB, the goals of the RAB and the board procedures for meeting. All board members must sign the Memorandum of Agreement.

##### **C. THDA Role in Working with Resident Advisory Boards [24 CFR 964.18; 964.150]**

THDA officially recognizes the voluntary Resident Advisory Board (RAB) as the sole representative of the HCV participants it represents and supports its resident participation activities. THDA will assist the RAB in setting up annual meetings, providing assistance with mail-outs and data availability; providing reimbursement of travel, meals and lodging expenses when necessary; and organizing the annual selection of voluntary members to the Board. THDA will provide the office space necessary for meetings. THDA does not provide any monetary stipends to the members of the Resident Advisory Board for these volunteer services.

##### **D. Goals and Activities of the Resident Advisory Board**

The goal of the Resident Advisory Board is through the direct participation of HCV residents that the overall quality of life for all HCV participants may be positively affected and the delivery of HCV services enhanced. The Board activities will include at a minimum the following:

1. Review and develop recommendations for the THDA Annual Plan;
2. Generate ideas for the development of the THDA Five-Year Plan;
3. Provide ideas and information for THDA efforts in converting Section 8 Project-Based Developments to Housing Choice Voucher assistance;
4. Review and make recommendations on HCV public awareness efforts including andlord and applicant recruitment;
5. Review HCV Administrative Procedures Manual for consumer feedback;
6. Provide information via newsletter to the HCV program participants; and
7. Elect Resident Board of Directors Member in accordance with Section F.

### **E. Membership Recruitment and Selection**

The Resident Advisory Board shall consist of a maximum of fifteen (15) members. The membership will be generated by a mass mailing to all HCV program participants on an annual basis. Program participants may volunteer for the RAB if they are currently in good standing with THDA (no termination proceedings pending or history of program family obligation violations). If more than fifteen (15) persons volunteer for the Board, THDA will utilize a random selection process that proportionately represents the East, West and Middle divisions of the state.

It is the sole decision of the RAB as to the selection of the Board Chairperson. The Chairperson's role, if utilized by the Board, is to conduct meetings, solicit member input and record minutes of each meeting.

Each Board Member serves for a one-year period and may volunteer for additional (consecutive or non-consecutive) terms of service annually. In the event that a current Board Member discontinues his/her HCV rental assistance or is terminated from the HCV program, he/she immediately forfeits his right to serve on the Board in any capacity.

## **II. RESIDENT BOARD MEMBER [24 CFR Part 964, Subpart E]**

To the extent required in Section 2(b) of the United States Housing Act of 1937, as amended by Section 505 of the Quality Housing and Work Responsibility Act of 1998 (collectively, the "Act") and regulations promulgated by HUD at 24 CFR Part 964, Subpart E (the "Regulations") and as specified in the Public Housing Authority Plan, the THDA Board of Directors (the "THDA Board") will include one eligible resident board member (the "Resident Board Member"). A Resident Board Member may serve on the THDA Board only in strict compliance with the THDA Administrative Plan

### **A. Eligibility**

To be eligible for THDA Board membership under this Administrative Plan, a person must be an eligible resident (as defined in 24 CFR Section 964.410), a citizen of Tennessee, and must not hold public office. A person who meets these requirement must then be selected by the THDA Resident Advisory Board and screened by THDA. Finally, the person must be



selected by the Governor and must meet the eligibility requirements throughout his Resident Board Member term.

## **B. Resident Board Member Term**

A Resident Board Member shall serve no more than one (1) term of four (4) years. A term shall expire earlier upon the occurrence of any one of the following events:

1. The Resident Board Member resigns;
2. The Resident Board Member is no longer an eligible resident (as defined in 24 CFR Section 964.410) or fails to meet any requirement for continued participation in the THDA Section 8 tenant-based rental assistance program;
3. The Resident Board Member no longer meets other eligibility requirements;
4. The Resident Board Member is removed for misfeasance, malfeasance or willful neglect of duty; or
5. The Resident Board Member is removed due to absence from any meeting of the THDA Board during any twelve (12) month period at which a matter related to the administration, operation and management of THDA Section 8 tenant-based rental assistance programs is on the THDA Board agenda, upon certification of such fact to the Governor by the Secretary of THDA.

If THDA terminates tenant-based HCV rental assistance to the Resident Board Member, the Resident Board Member's term shall expire on the earliest effective date of such termination and no subsequent appeals of the termination determination shall continue or extend the Resident Board Member's term.

If the term of a Resident Board Member ends or expires for any reason, the position shall remain vacant until it is filled in accordance with the procedures described below. Any Resident Board Member selected to fill a vacancy shall serve a four (4) year term, commencing from the dated of selection, subject to the requirements herein.

## **C. Oath**

The Resident Board Member shall take an oath of office to administer the duties of the Resident Board Member's office faithfully and impartially, and a record of such oath shall be filed with the office of the Secretary of State.

## **D. Membership Status**

The Resident Board Member shall be a full member of the THDA Board with all of the rights, duties, obligations, responsibilities and liabilities appurtenant thereto, except as described in "Resident Board Member Participation" below.

## **E. Resident Board Member Participation**

The Resident Board Member shall take part and vote in THDA Board decisions related to the administration, operation and management of THDA HCV tenant-based rental assistance programs. The Resident Board Member shall not take part or vote in any other THDA Board matters.

## **F. Resident Board Member Attendance**

The Resident Board Member shall attend all meetings of the THDA Board at which matters related to the administration, operation and management of THDA HCV tenant-based rental assistance programs appear on the THDA Board agenda. The Resident Board Member may attend any other meetings of the THDA Board.

## **G. Compensation**

The Resident Board Member shall receive no compensation for services or for missed work, but shall receive reimbursement for travel expenses in the performance of official duties as a member of the THDA Board, in accordance with comprehensive travel regulations as promulgated by the State of Tennessee.

## **H. Conflict of Interest**

As required in 24 CFR Section 964.430(c), the status of a Resident Board Member as a participant in the THDA administered HCV tenant-based rental assistance program does not constitute a conflict of interest, except when the matter under consideration is clearly and uniquely applicable to the Resident Board Member in their personal capacity and is not generally applicable to all or a sub-group of participants in the THDA administered HCV tenant-based rental assistance program. The Resident Board Member shall disclose all conflicts of interest in the same manner and based on the same standard (as described in TCA Section 13-23-128 and THDA Board Policy) as applicable to other THDA Board members.

## **I. Resident Board Member Selection**

The THDA Resident Advisory Board, established under this Chapter 19, shall, at a regularly scheduled meeting, elect up to five eligible persons, one of whom will become the Resident Board Member under this Administrative Plan. The persons elected by the THDA Resident Advisory Board will be screened by THDA to determine whether they are eligible residents (as defined in 24 CFR Section 964.410). The name of each eligible person elected by the THDA Resident Advisory Board and whether they meet the other specific requirements specified in this Administrative Plan shall be forwarded by THDA to the Governor. The Governor shall select a Resident Board Member from the persons so identified by THDA Resident Advisory Board election and THDA screening.

If none of the persons elected by the THDA Resident Advisory Board meets all eligibility requirements, none of the names will be forwarded to the Governor. At the next regularly

scheduled meeting of the THDA Resident Advisory Board, the process described above shall be repeated. Thereafter, the process shall be repeated until a Resident Board Member is duly selected.

If the THDA Resident Advisory Board fails to elect any eligible person, then the requirements of 24 CFR Section 964.425(a) and 24 CFR Section 964.425(b) shall be deemed to be met.

#### **J. Quorum**

The appointment of a Resident Board Member hereunder shall not modify, or affect, in any way, quorum or voting requirements specified in T.C.A. Section 13-23-110 or in THDA by-laws, as adopted or amended from time to time.